

HARASSMENT AND DISCRIMINATION POLICY

GENERAL POLICY

Chapman University is committed to providing an environment which is free of any form of harassment and discrimination based upon an individual's race, color, religion, sex, gender identity, gender expression, pregnancy, national origin, ancestry, citizenship status, age, marital status, physical disability, mental disability, medical condition, sexual orientation, military or veteran status, genetic information, or any other characteristic protected by applicable state or federal law, so that all members of the community are treated at all times with dignity and respect. It is the University's policy, therefore, to prohibit all forms of such harassment or discrimination among University faculty, students, staff, and administration.

The University's administration, faculty, staff, and students are each responsible for creating and maintaining an environment conducive to work, study, and learning and for cooperating with the University officials who investigate allegations of policy violations. Harassment and discrimination, in any form prohibited by this policy, impede the realization of the university's mission to provide an education of distinction in a dignified and respectful learning environment. It is the duty of every member of the faculty, staff, and administration to assure compliance with this policy by promptly reporting allegations of policy violations to the University's Equal Opportunity and Diversity Officer. Students are also strongly encouraged to report any alleged violations of this policy, and may do so by contacting the Equal Opportunity and Diversity Officer, the Dean of Students or one of the Title IX Coordinators listed below. The University will strive to review any charges in a confidential, sensitive, and expeditious manner.

In addition to or in lieu of the procedures set forth in this policy, any individual who feels he or she has been subjected to unlawful harassment or discrimination may contact the California Department of Fair Employment and Housing, the United States Equal Opportunity Commission, or the U.S. Department of Education, Office for Civil Rights.

DEFINITIONS

Discrimination: For purposes of this Policy, the term "discrimination" refers to conduct that subjects an individual to disparate treatment on the basis of race, color, religion, ancestry, national origin, gender, marital status, sexual orientation, age, disability, veteran status, or any other classification protected by law. This would include within its scope alleged conduct that deprives an individual of academic, employment, or other opportunities offered by the University on the basis of such protected characteristics. Examples of types of discriminatory conduct prohibited by this policy include:

- Depriving an individual of employment opportunities on the basis of a protected characteristic such as:
 - refusing to hire or promote a person because of a protected characteristic;
 - terminating a person on the basis of a protected characteristic;

- subjecting an employee to different performance standards or reviews because of a protected characteristic, other than in conjunction with a reasonable accommodation offered to a qualified individual with a disability, or
 - depriving an employee of job benefits on the basis of a protected characteristic.
- Depriving an individual of academic opportunities on the basis of a protected characteristic such as:
 - refusing admission to academic programs on the basis of a protected characteristic;
 - subjecting individuals to different academic standards on the basis of a protected characteristic;
 - refusing access to university housing, recreational, or social activities on the basis of a protected characteristic;

Harassment: For purposes of this policy, the term "harassment" refers to conduct that meets all of the three criteria defined below:

- Unwelcome;
 - For purposes of this policy, conduct is considered "unwelcome" if, under the totality of the circumstances it is 1) neither solicited nor incited; and 2) it is regarded by the recipient as undesirable or offensive.
- Directed or related to an individual's race, color, religion, ancestry, national origin, gender, marital status, sexual orientation, age, disability, veteran status or any other classification protected by law;
- When either of the following conditions exist:
 - It is implicitly or explicitly suggested that submission to or rejection of the conduct will be a factor in academic or employment decisions, evaluations, or permission to participate in a University activity; or
 - The conduct would be offensive to a reasonable person under the circumstances in question and, if not corrected, could interfere with an individual's academic or work performance or create or substantially contribute to an intimidating or hostile work, academic, or student living environment. In determining whether the alleged conduct constitutes discrimination or harassment under this policy, consideration of the incident will include but not limited to the totality of the circumstances, the context in which the alleged incident(s) occurred, the relationship of the parties, whether the alleged offending party was asked to cease the offending conduct and principles of academic freedom.

Examples of types of harassment prohibited by this policy include:

- Verbal harassment, such as harassing phone calls, jokes, slurs, epithets, anecdotes, or other derogatory statements directed to an individual's or group of individuals' race, color, religion, ancestry, national origin, gender, marital status, sexual orientation, age, disability, veteran status or any other classification protected by law other than in an appropriate academic study of such activity; or

- Visual, through the use of writings, graffiti, e-mail, posters, objects, or symbols that ridicule or demean an individual's or group of individuals' race, color, religion, ancestry, national origin, gender, marital status, sexual orientation, age, disability, veteran status or any other classification protected by law other than in an appropriate academic study of such material; or
- Physical, such as unwanted touching, stalking, or impeding an individual's free movement on the basis of a protected characteristic.

Sexual harassment, for purposes of Chapman University's Sexual Harassment Policy, is sexual conduct meeting the above criteria and is the subject of further definitions contained in the University's Sexual Harassment Policy.

SCOPE OF THE UNIVERSITY'S HARASSMENT AND DISCRIMINATION POLICY

This policy applies to all Chapman University administrators, faculty, and staff. This policy also applies to all students, although alleged violations of this policy and disciplinary actions involving students shall be conducted and determined by the Dean of Students or his/her designee in accordance with the Student Conduct Code. Independent contractors and others conducting business at the University are also expected to conform their conduct to the University's Harassment and Discrimination Policy, and alleged violations of this policy by such persons should be reported.

This policy applies to all on campus activities at the Chapman University campus or any other University facility. This policy also applies to "off campus" activities that are University related. Examples of activities that normally would fall into the "off campus" category are:

- For all persons (University administrators, faculty, staff, and students):
 - off-campus activities that are sponsored by or associated with the University; or
 - off-campus activities that derive from class assignments or for which credit may be received;
- For University personnel (University administrators, faculty and staff):
 - off-campus activities that occur during their normal working hours;
 - off-campus activities that involve students; or off-campus activities that occur outside their normal working hours that materially derive from, relate to, or bear upon their official capacities.

CONFIDENTIALITY

To the extent possible, the University will make a reasonable effort to conduct all proceedings related to harassment and discrimination allegations in a manner which will protect the confidentiality and privacy interests of all parties. Examples of situations where confidentiality cannot be maintained include circumstances when the University is required by law to disclose information, when disclosure is warranted by the University in order to protect the rights of others or is necessary to facilitate legitimate University processes including investigation and resolution of harassment and discrimination allegations. In addition to these efforts by the University, all parties to the alleged complaint should treat the matter under investigation with discretion and respect for the reputation of all parties involved.

ACADEMIC FREEDOM

Chapman University is an institution dedicated to learning and teaching and for this reason it is committed to the protection of the principle of academic freedom. All members of the University community have a right to use the academic forum provided by the University to discuss subjects and to express ideas with which members of the community may disagree or be uncomfortable. Within a University committed to the principle of academic freedom there can be no forbidden ideas. Consequently, faculty members, as experts in their disciplines, have not only the right but also the responsibility to select those materials and pedagogical tools which are appropriate to the content of the courses they teach.

Faculty members and students engaged in the creation and presentation of works of the visual and the performing arts are as much engaged in pursuing the mission of the University as are those who write, teach, and study in the other academic disciplines. These presentations, therefore, merit no less protection.

This policy fairly balances the imperative of protecting academic freedom while providing a learning and working environment free of harassment and discrimination. Words, visual images, and behavior which are disturbing to an individual or group of individuals are not necessarily a violation of this policy. Concerns or alleged charges regarding a violation of this policy will, therefore, be carefully reviewed with full consideration given to the protection of freedom of speech, academic freedom, and the pedagogical requirements of the course. As an academic institution, Chapman is obliged to ensure that regulations and procedures do not impair freedom of expression or discourage creativity by subjecting artistic work to tests of propriety or ideology.

In the context of conduct, speech, or ideas that occur or are shared as part of a class or course, the following considerations should be applied in assessing whether the conduct is harassing conduct and whether the conduct would be "offensive to a reasonable person under the circumstances":

- whether the conduct seeks to demean or ridicule a specific individual, such as a class participant on the basis of that individual's protected characteristic;
- whether the conduct involves an offensive touching;
- whether the conduct was directed to a particular person; and
- whether the conduct was persistent and pervasive.

PROTECTION AGAINST RETALIATION

Retaliation against an individual who in good faith brings a charge of harassment or discrimination, otherwise reports harassment or discrimination, or participates in an investigation under this policy is prohibited by University policy and state and federal law. Retaliation is a serious violation which can subject the offender to sanctions independent of the merits of the harassment or discrimination allegation.

EDUCATION

The University recognizes that educating faculty, staff, students and administrators about this policy and the problems it addresses plays a significant role in maintaining a campus environment that is free of harassment and discrimination. There are at least four major goals to be achieved through education: (1) ensuring that all victims and potential victims are aware of their rights; (2) notifying individuals of conduct that is proscribed; (3) informing administrators about the proper way to address complaints of alleged violations of this policy; and (4) helping educate the uninformed about the behavior this policy addresses.

In keeping with this objective, the University's Harassment and Discrimination Policy will be reviewed annually. The University's Equal Opportunity and Diversity Officer will send periodic announcements to all faculty, administrators and staff about the schedule for live training, as well as access to the self-paced online training module that is always available. An overview of the policy is included in student, faculty, and employee orientations, and this policy is incorporated by reference in the Student Conduct Code, and the applicable handbooks and manuals for faculty, staff, and students. In addition, copies of this policy are available online and in the Office of Human Resources.

SEXUAL HARASSMENT POLICY OVERVIEW

Chapman University is committed to providing an environment which is free of sexual harassment in any form. The policy applies regardless of the gender of the alleged victim or of the alleged offending party and would include within its scope harassment directed to members of the same sex as well as harassment of members of the opposite sex. Sexual harassment is a form of harassment and discrimination strictly prohibited under the University's Harassment and Discrimination Policy. Accordingly, the provisions of that policy shall apply fully to the interpretation, application, and enforcement of this Sexual Harassment Policy.

Because the University's goal is to create an environment free of any form or degree of sexual harassment, the scope of conduct prohibited under this policy is intended to be broader in scope than the definition of unlawful sexual harassment under state and federal non-discrimination laws while still including such unlawful conduct within its scope. Thus, a person may be found to be in violation of Chapman's Sexual Harassment Policy even though the conduct in question does not rise to the level of unlawful sexual harassment.

DEFINITIONS

Sexual Harassment: For purposes of this Policy, the term "sexual harassment" refers to unwelcome conduct of a sexual nature when:

- it is implicitly or explicitly suggested that submission to or rejection of the conduct will be a factor in academic or employment decisions, evaluations, or permission to participate in a University activity; or

- the conduct would be offensive to a reasonable person under the circumstances in question and, if not corrected, could interfere with an individual's academic or work performance or create or substantially contribute to an intimidating or hostile work, academic, or student living environment.

In determining whether the alleged conduct constitutes sexual harassment under this policy, consideration shall be given to the record of the incident as a whole including but not limited to repetitive, persistent, and accumulative alleged incidents. Harassment and discrimination as defined by this policy constitutes a form of intimidation which is inconsistent with a campus that fosters a free and supportive learning and academic environment.

Conduct of a Sexual Nature: This includes conduct that is verbal, visual, or physical. Conduct of a sexual nature may either be explicitly sexual or may involve conduct that derives its sexual nature from the circumstances in which the conduct occurs or when combined with other conduct that occurs in a sexual context. Conduct does not need either to express any sexual desire or to be directed to a specific person and can include conduct that attempts to demean, control, or stereotype others on the basis of their sex. While it is not possible to list every form that sexual conduct may take, the following are illustrative:

- sexual jokes, innuendoes, slurs or sexually suggestive comments other than in an appropriate academic study of such activity;
- sexually explicit or sexist statements or anecdotes or questions or statements about sexual activity other than in an appropriate academic study of such activity;
- unwanted sexual advances, propositions, invitations, or other forms of pressure (either blatant or subtle) for sexual activity;
- offensive touching, including engaging in unwanted hugging, patting, kissing, or brushing up against someone's body, or other inappropriate sexual touching;
- knowingly invading another's personal space in a sexually suggestive manner;
- displaying sexually suggestive pictures, objects, posters, cartoons, or calendars other than in an appropriate academic study of such activity;
- making sexual gestures;
- sending suggestive or obscene notes or phone calls or e-mail.

Unwelcome conduct: For purposes of this policy, conduct is considered "unwelcome" if, under the totality of the circumstances it is 1) neither solicited nor incited; and 2) if it is regarded by the recipient as undesirable or offensive.

Offensive to a Reasonable Person: For purposes of this policy, a determination whether the conduct would be offensive to a reasonable person shall be determined under the totality of the circumstances, including but not limited to the nature and context of the conduct, its frequency, the relationship of the parties, whether the offending party was asked to cease the offending conduct, and whether the offending party did so.

PROHIBITED CONDUCT

The following conduct is strictly prohibited:

- Engaging in sexual harassment as defined by this policy;
- Engaging in threats or reprisals to dissuade another from reporting sexual harassment under this policy;
- Impeding or obstructing the investigation under this Policy of complaints of sexual harassment; or
- Retaliating in any manner against someone from pursuing or participating in a charge of sexual harassment.

CONSENSUAL RELATIONSHIPS

There are special risks in any sexual or romantic relationship between individuals in inherently unequal positions (such as teacher and student, supervisor and employee, student and administrator, or student resident and the individual who supervises the day-to-day student living environment).

These risks are particularly high in relationships involving students. Because of the respect and trust accorded a professor or administrator by a student and the power exercised by the professor or administrator in giving praise or blame, grades, recommendations for further study or future employment, the students actual freedom of choice is greatly diminished when sexual demands are made. Therefore, consenting romantic and sexual relationships between faculty or administrators and students, while not expressly forbidden, are generally deemed unwise. Codes of ethics for most professional associations forbid professional-client sexual relationships. Therefore, faculty and administrators need to be aware of the possible costs of even an apparently consenting relationship, in regard to the academic efforts of both faculty member and student.

A faculty member or an administrator, who enters into a sexual relationship with a student (or supervisor with an employee) where a professional power differential exists, must realize that if a charge of sexual harassment is subsequently lodged, it will be exceedingly difficult to prove immunity on grounds of mutual consent. Parties in such a relationship assume those risks. Such relationships may undermine the real or perceived integrity of the supervision and evaluation provided, and the trust inherent particularly in the student-faculty relationship. They may, moreover, be less consensual than the individual whose position confers power believes. The relationship is likely to be perceived in different ways by each of the parties to it, especially in retrospect.

Moreover, such relationships may harm or injure others in the academic or work environment. Romantic and sexual relationships between supervisor and employee are also discouraged, and for the same reasons. Relationships in which one party is in a position to review the work or influence the career of the other may provide grounds for complaint when that relationship gives undue access or advantage, restricts opportunities, or creates a hostile environment for others. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic involvement, this past consent does not remove grounds for a charge based upon subsequent unwelcome conduct.

In any such relationship, mutual consent will not guarantee immunity from charges of sexual harassment.

PROCEDURES FOR ADDRESSING CONCERNS ABOUT HARASSMENT AND DISCRIMINATION

OVERVIEW

The University has developed a range of resources to address issues of harassment and discrimination. They have been structured to offer a range of options for resolving questions and concerns. The procedures range from training designed to assist persons in understanding this policy, the conduct prohibited by this policy, and their rights and duties hereunder, to complaint proceedings where disciplinary action, up to and including termination or expulsion, may be taken.

Persons seeking assistance under this policy may select at their option which step or steps to take. These steps are not required to be followed in any specific order, and initiating the process at one step does not preclude a party from changing to another step at a later point in time.

Persons desiring more information about these procedures are invited to contact the University's Equal Opportunity and Diversity Officer.

TITLE IX STUDENT SEXUAL ASSAULT AND HARASSMENT

Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination on the basis of sex in educational programs operated by institutions that receive federal financial assistance. Programs and activities which may be included are: admissions, recruitment, financial aid, academic programs, athletics, housing and employment.

Sexual harassment of students is a form of sex discrimination prohibited by Title IX and includes acts of sexual violence. Both male and female students are protected from sexual harassment and/or violence in all educational programs and activities operated by Chapman University.

A student who believes that she or he has been discriminated against based on her or his sex, or subjected to sexual harassment and/or assault should consult one of the University's Title IX Coordinators. The Title IX Coordinators are responsible for coordinating the University's compliance with and responsibilities under Title IX. Major duties include, but are not limited to:

- Being available to meet with students who believe sexual harassment or assault has occurred
- Ensuring that complaints are handled in accordance with established practices and standards
- Personally investigating the incident or overseeing the investigation

Students who believe that they have been or are the victims of sexual harassment, including sexual assault, sexual violence or other sexual misconduct, by another University student, should freely and without fear of retaliation report such misconduct or file a complaint under Title IX with:

DeAnn Yocum Gaffney, *Lead Title IX Coordinator*

Assistant Vice Chancellor
& Associate Dean of Students
Argyros Forum 101
One University Drive
Orange, CA 92866
Tel: (714) 997-6721
Fax: (714) 532-6009
Email: gaffney@chapman.edu

Christopher Toutain,
Program Coordinator, Student Conduct
Argyros Forum 101
One University Drive
Orange, CA 92866
Dean of Students office
Tel: (714) 532-6039
Email: toutain@chapman.edu

Kristen Entringer,
Program Coordinator, Student Conduct
Argyros Forum 101
One University Drive
Orange, CA 92866
Dean of Students office
Tel: (714) 532-6056
Email: entringer@chapman.edu

Students who believe that have been subjected to sexual harassment, including sexual assault, sexual violence or other sexual misconduct, by University faculty or staff or experience any other form of gender discrimination prohibited by Title IX should freely and without fear of retaliation report such misconduct or file a complaint under Title IX with:

Misha Martinez, *Deputy Title IX Coordinator*

Equal Opportunity and Diversity Officer
DeMille Hall 103
One University Drive
Orange, CA 92866
Tel: (714) 997-6847
Fax: (714) 997-6901
Email: mismarti@chapman.edu

Regardless of the alleged status of the harasser students should feel free to report violations of Title IX to any of the above individuals for investigation. The University will not tolerate retaliation against any individual who files a complaint under Title IX or who participates in an investigation of a complaint.

COMPLAINTS OF HARASSMENT OR DISCRIMINATION

Any person who feels he or she has been subjected to harassment or discrimination in violation of this policy or who feels he or she is aware of prohibited harassment or discrimination directed toward others may file a complaint with the University Equal Opportunity and Diversity Officer ("EODO"), whose office is located in Human Resources, DeMille Hall, Room 103.

The University requests that complaints be made in writing to assure the accuracy of the charge, although verbal complaints will also be accepted. Information about the informal and formal complaint procedures, as well as the complaint form, can be found on the Equal Opportunity and Diversity Officer website at <http://www.chapman.edu/faculty-staff/human-resources/eoo.aspx>.

The Human Resources Department also maintains a toll free Harassment Complaint Line for the purpose of reporting incidents applicable to this policy. The toll free number is (877) 527-7533.

Upon receipt of a complaint, the EODO will conduct a preliminary assessment of the complaint to determine whether the complaint can be handled through an informal resolution process. To resolve a complaint informally, it is necessary to obtain the written consent of 1) the complaining party; 2) the accused; and 3) the University. Faculty may instead choose to file a grievance related to this policy in accordance with the Faculty Manual, however, a faculty member must choose one process or the other and may not have the complaint reheard or removed from one process to the other once it has been filed. Likewise, students may seek to have their concerns heard as a violation of the Student Code of Conduct but must choose one process or the other and may not have the complaint reheard or removed from one process to the other once it has been filed.

Complaints that are not eligible for informal resolution and that are not under review in accordance with the Faculty Manual or Student Conduct Code shall be further investigated by the University's EODO, and the results of such investigation shall be submitted for formal resolution to the appropriate vice-president. The applicable procedure for formal resolution shall depend primarily upon the status of the person or persons accused of a policy violation. The status of the accusing party may be taken into consideration in cases in which the accusing party is a student and modification of the procedures is necessary to protect the well-being of the student while still assuring a full and fair investigation for the accused. Complaints of harassment or discrimination against students shall be reviewed and resolved in accordance with the disciplinary procedure for student conduct violations. Complaints against faculty generally will be reviewed and resolved under the disciplinary procedure in the Faculty Manual, and charges directed against staff or administration generally will be reviewed and resolved under the disciplinary procedures in the University's Staff and Administrative Handbook.

False or bad faith complaints of harassment, discrimination or retaliation undermine the purposes of this Policy, may result in the waste of valuable time and resources and/or may improperly implicate University employees or others. No employee shall be discriminated against or otherwise treated unfairly for filing a complaint or assisting in the investigation process pursuant to this Policy; however, it is a violation of this Policy to misuse or abuse the procedures available under this Policy, for example, by knowingly misrepresenting facts in a complaint or investigation, or initiating multiple complaints based on the same facts and circumstances previously addressed in a prior complaint which has been previously investigated. Employees found to have violated this Policy are subject to disciplinary action under the policies governing his or her position.

ANONYMOUS INQUIRIES AND COMPLAINTS

Members of the University community may contact the Office of Human Resources and students may contact the Dean of Students Office at any time to ask questions about discrimination, harassment, retaliation, or complaint procedures without disclosing their names and without filing a complaint. Because of the inherent difficulty in investigating and resolving allegations from unidentified persons, the University discourages individuals from making anonymous complaints. However, if an individual desires to make a complaint anonymously, then the University will weigh factors such as the following to determine the appropriate response to an anonymous allegation:

- The source, specificity and nature of the information provided;
- The seriousness of the alleged conduct;
- The objectivity and credibility of the source of the report;
- Whether other individuals potentially can be identified who were privy to the alleged policy violation; and
- Whether those individuals are willing to pursue the matter.

OTHER RESOURCES

Persons who feel they may have been subjected to unlawful harassment or discrimination may also file a charge with the California Department of Fair Employment and Housing (DFEH), the United States Equal Employment Opportunity Commission (EEOC), or for students: the U.S. Department of Education, Office for Civil Rights (OCR). The nearest offices are listed in the telephone book or available by web search at www.eeoc.gov, www.dfeh.ca.gov and www2.ed.gov/ocr

