

Institutional Policy on Discrimination and Harassment

The University is committed to upholding standards which promote respect and individual dignity in an open environment fostering learning and professionalism. It is the policy of the University to maintain an educational and work environment free from discrimination and harassment. Discrimination against or harassment of any member of the University community, based on race, color, gender, sex, age, marital status, religion, national origin, citizenship, political affiliation, disability, military or veteran status, or other legally protected category is prohibited. The University also prohibits retaliation against any person who brings a good faith complaint under this policy or is involved in the complaint process. Conduct that violates this policy may also violate state or federal law.

Any violation of this policy by a student or employee of the University may result in disciplinary action which may range from reprimand to expulsion (for students), or termination of employment (for employees).

The educational process at the University is based on mutual trust, freedom of inquiry, freedom of expression, and the absence of intimidation and exploitation. To function as a center of academic freedom and intellectual advancement promotes free and unfettered discussion of the widest possible nature, and encourages expression of all points of view. The University recognizes that the academic setting is distinct from the workplace in that wide latitude is required for professional judgment in determining the appropriate content and presentation of academic material. Assertions that could be construed as discriminatory or harassing, however, should be directly related to the exchange of ideas, ideologies or philosophies. Any such assertions in the teaching context that are persistent, pervasive, and not germane to the subject matter will not be tolerated.

Legal Basis

Lourdes University's institutional Policy on Discrimination and Harassment is consistent with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, 34 CFR Part 106, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973 and 34 CFR 104.7, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, and the Genetic Information Non-Discrimination Act of 2008.

In addition to contacting the relevant Administrator set forth below, regarding the application of Title IX, the ADA, or Section 504 an individual may contact the Regional Civil Rights Director,

U.S. Department of Education, 1350 Euclid Avenue, Suite 325, Cleveland, OH 44115, Telephone: (216) 522-4970 Facsimile: (216) 522-2573, Email: OCR.Cleveland@ed.gov.

Discrimination

Discrimination is conduct that is based upon an individual's race, color, gender, sex, age, marital status, religion, national origin, citizenship, political affiliation, disability, military or veteran status, or other legally protected category that excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a University program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.

Lourdes University does not discriminate on the basis of race, color, national origin, sex, disability, age, or any other legally protected category in its programs and activities, as required by Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, 34 CFR Part 106, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973 and 34 CFR 104.7, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, and the Genetic Information Non-Discrimination Act of 2008.

Harassment

Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, creed, religion, national origin, ancestry, citizenship, sex, disability, military or veteran status, age, or other legally protected category that:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;
2. Has the purpose or effect of unreasonably interfering with an individual's work performance;
3. Otherwise adversely affects an individual's employment opportunities;
4. Has the purpose or effect of creating an intimidating, hostile, or offensive study or learning environment;
5. Has the purpose or effect of unreasonably interfering with an individual's study or learning experience; or
6. Otherwise adversely affects an individual's educational opportunities.

Sexual Harassment

The University will not tolerate sexual harassment. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a condition of the individual's employment or educational opportunities;
2. Submission to or rejection of such conduct by an individual is used as a basis for employment or educational decisions affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with the individual's work or educational performance, or creating an intimidating, hostile, or offensive working or studying environment.

Examples of sexual harassment include, but are not limited to these actions:

1. Physical assault, indecent exposure, physical contact of a sexual nature, or realized sexual encounters;
2. Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation;
3. Direct propositions of a sexual nature;
4. A subtle pressure for sexual activity or a pattern of conduct intended to disconcert, distress, or humiliate through sexual comments or sexually explicit statements, questions, jokes, anecdotes, or sexually explicit visual/auditory material;
5. A pattern of conduct that would disconcert, distress, or humiliate a reasonable person of the same gender as the person to whom the conduct was directed. The pattern of conduct could include one or more of the following actions: unnecessary touching, unwanted staring, patting, hugging, or brushing against a person's body; remarks of a sexual nature about a person's clothing or body; remarks about sexual activity, or speculations about previous sexual experience.

Redress of Complaints

Individuals are strongly encouraged to report all incidents of discrimination, harassment, sexual misconduct, and retaliation. Individuals who make complaints under this policy or provide information related to such complaints will be protected against retaliation. No one will be reprimanded or discriminated against in any way for initiating an inquiry or complaint in good faith. Once an inquiry or complaint is made, efforts will be made to resolve the problem within a reasonable time.

Sexual misconduct matters involving students will typically be addressed in accordance with the Community Standards Code of Conduct and/or the Sexual Misconduct Policy, as appropriate. Any gender-based discrimination complaints, whether addressed under this policy, or the Sexual Misconduct Policy, will be reported to the Title IX Coordinator.

Confidentiality of complaints filed under this Institutional Policy on Discrimination and Harassment will be protected to the extent reasonably possible, but complete confidentiality can decrease the effectiveness of the investigation. The University will do its best to respect requests for confidentiality and weigh them against preserving the environment of the University community. In any situation, the University will disclose information only to those who need to know about it. It is important that the complainant, the respondent, and others involved in a complaint (witnesses, advisors) also use discretion when discussing the matter, and are expected to maintain confidentiality. In a small community, public discussion of matters covered by this policy can be hurtful.

Problems, questions, and complaints addressed under the Institutional Policy on Discrimination and Harassment may include complaints based on the conduct of University faculty, administrative and staff members and other persons acting in official University capacities.

Problems, questions, and complaints regarding gender/sex discrimination involving students shall be addressed in accordance with the Title IX: Sexual Misconduct Policy (not this Policy) and directed to the University's Title IX Coordinator:

B. Riku Ahluwalia
Director of Compliance/Special Counsel
419-824-3834
titleix@lourdes.edu

Problems, questions, and complaints alleging harassment and/or discrimination the part of University students, other than that addressed by the Title IX: Sexual Misconduct Policy, shall be addressed in accordance with the Community Standards & Student Conduct Code and directed to:

Andy Ham
Executive Director of Residence Life and Community Standards
419-824-3873
aham@lourdes.edu

Problems, questions, and complaints regarding disability discrimination shall be addressed in accordance with this Policy and directed to:

B. Riku Ahluwalia
Director of Compliance/Special Counsel
419-824-3834
bahluwalia@lourdes.edu

All other inquiries and complaints regarding discrimination and/or harassment shall be addressed in accordance with and directed to:

Geoffrey Grubb, Ph.D.

Provost

Lourdes Hall 132

419-517-3818

ggrubb@lourdes.edu

Informal Resolution

In many instances, informal discussion and mediation can be helpful in resolving perceived instances of discrimination, harassment, sexual misconduct, or retaliation under this Policy. Problems are sometimes easier to resolve when an informal atmosphere encourages people to identify the problem, talk about it, and agree on how to deal with it. Merely discussing a complaint does not commit one to making a formal complaint. Informal resolution may be stopped at any time in order to pursue the formal complaint process. Complaints of sexual violence shall not be subject to mediation.

The administrators listed above may be helpful in advising and adding to a person's own efforts to resolve a problem. Such help may involve coaching the individual in preparation for a conversation with the person causing the problem; assisting the individual in writing a letter to that person describing the offending behavior and requesting that it stop; or offering to meet with the person causing the problem.

If the administrator listed above is the subject of the harassment or discrimination allegations or the complainant is otherwise uncomfortable approaching a designated administrator, the complainant may direct his/her concerns to the other administrator or to the Director of Human Resources.

Formal Complaints

Official allegations of harassment or discrimination addressed under this Institutional Policy on Discrimination and Harassment shall be addressed promptly and equitably and are to be made to the appropriate administrator in a signed written statement as soon as possible but not later than ninety (90) calendar days of the allegedly harassing or discriminatory event(s). Use of this internal procedure does not foreclose subsequent legal action. Individuals may wish to obtain legal advice as they consider the courses of action open to them. However, the processes described here are not those of a court of law, and the presence of legal counsel is not permitted during these discussions.

The complaint must include the following information: name, address, and telephone number of the complainant; the nature of the complaint; date(s) and location(s) of the alleged occurrence(s); evidence on which the complaint is based; and the redress sought by the complainant. The appropriate administrator or his/her appointee, after it has been determined that no conflict of interest or bias exists, shall have 20 calendar days in which to conduct an investigation of the complaint and prepare a written summary of relevant information. During the summer, additional time may be necessary.

Throughout the complaint process, efforts will be made to protect the complainant from retaliation (which should be reported to the administrator authorized to receive a complaint), and to protect the respondent from irresponsible and/or bad faith complaints. Any person who intentionally makes a false accusation is subject to disciplinary action.

The purpose of the investigation is to establish: (1) whether there is a reasonable basis for believing that the alleged violation(s) of this Policy has occurred; (2) the factual circumstances surrounding the claim; and (3) what corrective action, if any, is appropriate. The investigator shall promptly notify the person

against whom the complaint is made of the formal complaint and, if necessary, shall notify the appropriate University officer or supervisor of the nature of the complaint and the identity of the parties.

In conducting the investigation, the investigator may interview the complainant, the person against whom the complaint is made, and any other persons believed to have pertinent factual knowledge. At all times, the investigator, interviewees, and any University personnel with knowledge regarding the complaint shall take steps to maintain strict confidentiality.

The investigator's report will be sent to the complainant and respondent and to the Director of Human Resources. In order to allow the parties the opportunity to respond, the complainant and respondent may each submit a written statement within seventy two (72) hours of the investigator's report to the investigator who sent the report.

Within five calendar days after the submission of any statements from the complainant and the respondent, the Director of Human Resources will decide to:

- a) dismiss the complaint if it is found to lack sufficient evidence or to otherwise be without merit; or
- b) ask the investigator to consider the matter further and submit a supplementary report within five days; or
- c) take prompt corrective action s/he believes is warranted, which may range from reprimand to dismissal.

The Director of Human Resources shall promptly notify both parties in writing of his/her determination.

Appeals

If either party disputes the findings or is dissatisfied with the procedures or recommendations of the investigator, the party may appeal by filing a written appeal with the President of the University within 15 calendar days of being notified of the results of the investigation. The President will appoint an Appeals Committee comprised of one faculty member, one Cabinet member, and one staff member; prior to appeal review, it shall be determined that no conflict of interest or bias exists regarding the case matter for appointed Appeals Committee members. Any appeal will be shared with the other party, who will have seventy two (72) hours to respond in writing. The Committee shall review the record of the matter and will reach a final determination as to any action to be taken within fifteen (15) calendar days of receipt of the appeal.

The determination of the Appeals Committee is final.

Anti-Retaliation Statement

Retaliation of any kind against anyone filing or participating in a complaint or investigation of harassment or discrimination is prohibited. Initiating a complaint of harassment or discrimination will not affect a complainant's employment, compensation or work assignments or, in the case of students, grades, class selection, or any other matter pertaining to student status.

Distinguishing between harassing or discriminatory conduct and conduct that is purely personal or social without a harassing or discriminatory work or educational effect requires a determination based on all of the facts pertaining to the situation. False accusations of harassment or discrimination can seriously injure innocent people. Initiating a false harassment or discrimination complaint or initiating a harassment or discrimination complaint in bad faith may result in disciplinary action. A finding of no harassment or discrimination does not constitute a finding that the complaint was in bad faith.

Additional Reporting

Individuals with complaints under this Policy also have the right to file a formal complaint with the United States Department of Education's Office for Civil Rights, Cleveland Office, 1350 Euclid Avenue, Suite 325, Cleveland, OH 44115-1812; Telephone: 216-522-4970; FAX: 216-522-2573; TDD: 800-877-8339; Email: OCR.Cleveland@ed.gov.

Lourdes University does not discriminate on the basis of race, color, national origin, sex, disability, age, or any other legally protected category in its programs and activities. Lourdes University's policies against discrimination, harassment, sexual misconduct, and retaliation are consistent with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, 34 CFR Part 106, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973 and 34 CFR 104.7, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, and the Genetic Information Non-Discrimination Act of 2008.