

# **The University of the South**

## **Non-Discrimination, Harassment, and Retaliation Policy**

### **University's Commitment**

The University of the South stands firmly for the principle that its employees, students, and participants of university-sponsored programs have a right to be free from discrimination based on race, color, sex, religion, national origin, age, disability, sexual orientation, gender identity, veteran status, pregnancy and childbirth, and genetic information, and free from sexual misconduct in its educational programs and activities and with regard to employment. The University is committed to sustaining a community in which the dignity of every individual is respected. Key to this value are efforts to nurture an environment of civility and mutual respect and to foster a culture of reporting concerns so that the University can respond promptly and equitably whenever an incident occurs. All employees, students, and participants of university-sponsored programs also have the right to be free from harassment and retaliation.

### **Related Commitments**

The University is also committed to free expression. Speech not specifically directed against individuals in a harassing way may be protected by traditional safeguards of free speech, even though the comments may cause considerable discomfort or concern to others in the community.

### **Definitions**

**Discrimination:** Discrimination is the unequal treatment of a person based on the group, class, or category to which that person belongs rather than on individual merit.

**Harassment:** Harassment covers a wide range of behavior and is generally defined as repetitive conduct that threatens, intimidates, alarms, or puts a person in fear for their safety. Harassment has two criteria: 1) the behavior is unwanted, unwelcomed, and uninvited behavior that demeans, threatens, or offends, **and** 2) the behavior has the effect of substantially interfering with an individual's work or educational performance by creating an intimidating, hostile, or demeaning educational or work environment.

Harassment may take on many different forms including, but not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, impeding or blocking movement, and offensive touching.

This policy does not intend to discourage the normal exchange of ideas within the academic environment, nor the introduction of controversial but relevant ideas within the classroom. Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of conduct that violates this policy.

**Retaliation** is prohibited against any person who brings a good faith report under this policy, or has information about or is involved in a complaint resolution process. Retaliation includes, but is not limited to, intimidation, threats, harassment, and other adverse action threatened or taken against any reporter or other persons involved. Retaliation may result in immediate disciplinary action.

## **Filing a Report and Confidentiality**

It is University policy to respond promptly and sensitively to all reports of discrimination, harassment, and retaliation. Once the University is made aware of a possible situation of discrimination, harassment, or retaliation, the University responds. The University will strive to maintain the **confidentiality** of all parties to the fullest extent possible while meeting the legal mandate to act. The University's response system is designed to offer a number of choices and access points for dealing with the discrimination, harassment, or retaliation. Any person who is found responsible for discrimination, harassment, or retaliation will be subject to disciplinary action ranging from a warning to discharge, as appropriate.

Gender-based discrimination, retaliation, and harassment, including sexual violence are routinely assigned to the Title IX Coordinator. The Title IX Coordinator is Dr. Kelly Malone, and she may be contacted in Gailor 115, or at [kamalone@sewanee.edu](mailto:kamalone@sewanee.edu) or [titleix@sewanee.edu](mailto:titleix@sewanee.edu), or extension 3368.

Reports of other forms of harassment (i.e. age, race, disability, etc.) are normally assigned according to the individuals involved. The Director of Human Resources is typically assigned reports regarding staff. The Dean of the College or their designee is typically assigned reports related to faculty or students in the College and in the School of Letters, and the Associate Dean of Community Life in the School of Theology is typically assigned reports in the School of Theology.

These administrators may be helpful in advising and aiding 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.

## **When to File a Report**

Prompt reporting of an incident is strongly urged, since it is often difficult to determine the facts of an incident long after the incident has occurred. In order to facilitate an adequate investigation, the complaint process must be initiated within 90 days of the incident.

## **How to File a Report**

Reports should be filed in person or [electronically](#). In-person reports can be brought to any of the following individuals for guidance on the process: Title IX Coordinator, the Director of Human Resources, the Dean of the College, the Dean of the School of Theology, the Dean of Students in the College, the Associate Dean for Community Life in the School of Theology, and the Director of the School of Letters. The reporter (the party making the report or the subject of the report) may have a University employee or student present at the discussion of the report.

## **Pathways to Resolution**

Use of these internal procedures 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 proceedings described here are not those of a court of law and the presence of legal counsel is not permitted during these discussions. Both informal and formal processes provide opportunities for interim measures and protection from retaliation but they have different procedures.

The University's informal processes (steps 1 and 2) are the most common type of resolution. Switching from an informal to formal process remains an option at the discretion of the reporter or the appropriate decider but a switch can only be made prior to when a final decision is communicated.

### 1. **Steps You Can Take on Your Own**

All of the following are appropriate ways to confront harassment directly:

- a. Speak up at the time and say "NO" to the harasser. Be direct and firmly tell the harasser to stop. Clearly communicate your disapproval of behavior that makes you uncomfortable and that you consider it to be harassing. There is no need to apologize or smile. Whether or not you confront harassing behavior immediately, you can still take actions and the behavior can still be judged harassing.
- b. Write a letter to the harasser, particularly if speaking up is uncomfortable or unsuccessful. First, describe in plain terms the behavior you found objectionable, then describe your feelings in response to it. State clearly that you want the behavior to stop. Send the letter by registered, return receipt mail and keep a dated copy of the letter for yourself. Also, tell someone you trust about the letter.
- c. Keep records, regardless of whether you have decided to take other action.
- d. Document all incidents and conversations that involve harassment, noting date, time, place, witnesses and what was said and done.
- e. Get help at any point. If the harassment does not stop, or if you would like advice on deciding how to deal with the harasser, follow the procedures outlined below.

### 2. **Consultation**

In many instances, informal discussion and mediation can be helpful in resolving perceived instances of discrimination, harassment, or retaliation. 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 an issue does not commit one to making a formal charge. Complaints of sexual violence will not be subject to mediation. The following individuals are available for consultation: the Title IX Coordinator, the Director of Human Resources, the Dean of the College, the Dean of the School of Theology, the Dean of Students in the College, the Associate Dean for Community Life in the School of Theology, and the Director of the School of Letters

### 3. **Formal Complaint**

Anyone who believes they are the object of discrimination, harassment, or retaliation may choose, either initially or after having sought consultation, to bring a formal complaint. Depending on the involved parties, potential for conflicts, and type of harassment, the formal complaint process will be managed by the Title IX coordinator, the Associate Dean for Inclusion and Faculty Development, Associate Dean of Community Life in the School of Theology, or Human Resources.

Reports of sexual misconduct, including sexual violence, against College students normally will be handled according to the Sexual Misconduct Policy located at <http://life.sewanee.edu/media/student-life/Sexual-Misconduct-Policy-2016-17.pdf>

Reports against students in the School of Theology and ordained employees may be referred to the appropriate ecclesiastical entity for resolution, which may be in addition to the University's process.

The School of Theology's decision to refer an incident to another entity does not prevent the University from taking direct action.

## **Formal Complaint Process**

### **1. Fact Gathering**

If the individual wishes to file a formal complaint after an initial report, they will be asked to submit a written statement to the appropriate coordinator (Title IX coordinator, the Associate Dean for Inclusion and Faculty Development, Associate Dean of Community Life in the School of Theology, or Human Resources) describing the issue. This statement will be shown to the accused person (respondent). This information serves as the basis for further fact gathering.

A fact finder is appointed by the appropriate coordinator (Title IX coordinator, the Associate Dean for Inclusion and Faculty Development, Associate Dean of Community Life in the School of Theology, or Human Resources), and will consult with the reporter and with the respondent, and others as appropriate, in order to ascertain the facts of the situation and the views of both the parties.

### **2. Report**

The fact finder prepares a summary of the relevant information. A draft of the summary will be shown to the reporter and the respondent in order to permit each the opportunity to respond before a final report is made. Any response must be given to the investigator within five days of receiving the draft summary. The final report will be sent to the person appointed to resolve the complaint.

### **3. Decision**

Normally, one of the following will likely be assigned to resolve the conflict: the Director of Human Resources, the Dean of the College, the Dean of the School of Theology, the Dean of Students in the College, the Associate Dean for Community Life in the School of Theology, or the Director of the School of Letters. The person appointed to resolve the complaint will receive the final report and also share the final report with the reporter and the respondent. Within three days thereafter, the reporter and the respondent may each submit a statement to the complaint resolution person concerning the report.

The person appointed to resolve the complaint may: 1) dismiss a complaint if it is found to lack sufficient evidence or to otherwise be without merit; 2) ask the fact-gatherer to consider the matter further and submit a supplementary report; or 3) take whatever action they believe to be warranted, which may range from reprimand to dismissal. In a case where disciplinary action is to be taken against a tenured or tenure-track faculty member, the appropriate Dean shall notify the faculty member in writing of the reason discipline is being considered and offer the faculty member an opportunity to respond.

The reporter, respondent, the Title IX Coordinator, Human Resources, and the Provost will be notified of the action taken.

### **4. Protection of the Reporter and Respondent**

Throughout the complaint process, efforts will be made to protect the reporter and other process participants from retaliation. Any person who intentionally makes a false accusation is subject to disciplinary action.

## Appeals

An appeal by a tenured or tenure-track faculty member will be handled in accordance with the Personnel Procedures for Tenured and Tenure-Track Faculty at the University of the South.

All other appeals may be taken to the Provost. Such appeals must be submitted in writing to the Provost's office within three days after notification of the decision. The Provost may appoint an advisory committee to review an appeal.

Appeals must be based on one of the following grounds:

1. that there is new information that **substantially** alters the understanding of the event(s) in question;
2. that the complaint process was not followed in a fundamentally fair manner; or
3. that the sanction imposed is disproportionate to the offense.

If an appeal is granted a review, the appeal will be shared with the other party, who will have three days to respond in writing.

Appeal decisions are communicated to both parties and decisions are final. A permanent record of the formal complaint process and any appeal is ordinarily retained by the University.

## Modification of Complaint Resolution and Appeal Procedures

The University may modify the procedures set forth above in light of the nature of the charges, the parties or witnesses involved, or other reasonable cause. If the process is modified, both parties will be informed.

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*The University of the South's policy against discrimination, harassment, sexual misconduct, and retaliation 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 Title IX Coordinator, who is the compliance coordinator, persons with inquiries regarding the application of Title IX and 34 CFR Part 106 may contact the Regional Civil Rights Director, U.S. Department of Education, Office for Civil Rights, Region IV, 61 Forsyth Street S.W., Suite 19T70, Atlanta, Georgia 30303.*

# Resolution Options Flowchart

