

Policy on Harassment

Adopted by the Board of Trustees on June 7, 2002

1. PURPOSE AND SCOPE OF THIS POLICY

1.1. Lehigh University does not discriminate against any person based on age, color, disability, gender identity or expression, genetic information, marital or familial status, national or ethnic origin, race, religion, sex, sexual orientation, or veteran status. Such harassment is unacceptable behavior and will not be tolerated.

This policy:

- Defines prohibited conduct;
- Sets procedures for addressing and resolving harassment complaints.

1.2. Education and Prevention. The University provides education about harassment through orientation and follow-up programs for students, staff, faculty, and administrators. All people in a supervisory capacity will receive appropriate training to take leadership in implementing the policy. They will inform people under their direction of this harassment policy and assume leadership in implementing the procedures.

1.3. Academic Freedom. Lehigh University upholds the principles of academic freedom and free speech.

2. DEFINITION OF HARASSMENT

This policy addresses two forms of harassment:

- a hostile work, learning, co-curricular, social, or living environment;
- quid pro quo sexual harassment.

2.1. A Hostile Work, Learning, Co-curricular, Social or Living Environment occurs when a member of the Lehigh University community or a guest is subjected to unwelcome statements, jokes, gestures, pictures, touching, or other conducts that offend, demean, harass, or intimidate. Harassment includes offensive verbal or physical conduct that has the purpose or effect of interfering with an

individual's work or educational performance, or has the purpose or effect of creating an intimidating, hostile, or offensive environment. The violating conduct may involve a very serious and offensive event, or may involve persistent harassing behavior. A hostile environment can be created by supervisors, co-workers, faculty, coaches, students, alumni, or visitors to campus such as vendors and contractors.

2.1.1. Examples of a serious act. An isolated comment or incident usually does not create a hostile work or educational environment. The exception is if the incident is a serious act, such as **1)** an intentional, non-consensual touching of an intimate body area of another person; **2)** an instructor humiliating a student in class by making a joke about the student's disability; or **3)** a student marking Nazi swastikas on a fellow student's door.

2.1.2 Examples of persistent hostile behavior. What also constitutes a hostile work or educational environment is failure to stop a behavior that a reasonable person would find hostile or abusive. **Examples:** **1)** students in a class ask a teaching assistant not to tell offensive jokes, but she or he continues to do so; **2)** an employee asks a supervisor not to touch him or her, but the supervisor continues to do so.

2.1.3. Stereotyping. Statements that demean people on the basis of age, color, disability, gender identity or expression, genetic information, marital or familial status, national or ethnic origin, race, religion, sex, sexual orientation, or veteran status can also contribute to a hostile work or educational environment. For example, it would be gender stereotyping to ask a man or a woman why he or she is majoring in a discipline such as English, Engineering, or Finance because people of this gender can't succeed in the area. Another example of stereotyping would be to ask an older colleague why she or he hasn't retired. Each of these isolated questions is not harassment by itself, but could contribute to a hostile environment.

2.2. Quid Pro Quo Sexual Harassment occurs when a member of the Lehigh University community explicitly, or implicitly, promises or withholds job-related or education-related benefits based upon the employee's or student's acquiescence to sexual advances or behavior.

2.2.1. Quid pro quo sexual harassment includes unwelcome sexual advances and requests for sexual favors, where submission to the conduct is made a term or condition of employment or educational opportunity; or submission to or rejection of such conduct is used as a

basis for employment or educational decisions. Such harassment may involve behavior by a person of either sex against a person of the same or opposite sex.

2.2.2. Examples of quid pro quo sexual harassment may include but are not limited to:

- seeking sexual favors or relationships in return for the promise of a favorable grade or other academic opportunity;
- basing an employment-related action (e.g., hiring, salary increase, performance appraisal, termination) on a sexual favor or relationship.

2.3. Supervisory Conflict of Interest

A supervisor should avoid developing a romantic or sexual relationship with an employee. Similarly, an instructor (e.g., advisor, course instructor, teaching assistant) should avoid developing a romantic or sexual relationship with a student taught, advised, or supervised by that instructor. If such a relationship does develop, it is a conflict of interest for one party to continue in any type of supervisory role. In such a situation, the supervisor or instructor must arrange for alternative supervision of the employee or student. For example, a doctoral advisor should confer with the student and the faculty of his or her department to identify and recruit an alternate doctoral advisor. A supervisor and employee should work with their department and Human Resources for reassignment of the employee or supervisor to another department or to institute a change in the supervisory relationship.

It is the responsibility of the person in the supervisory role to resolve the conflict of interest. Failure to resolve a conflict of interest puts the supervisor at risk for charges of sexual harassment.

3. WAYS TO DEAL WITH HARASSMENT

3.1. Individuals who believe that they have been subject to harassment, or any member of the University community who has knowledge of harassment incidents, may take one or more of the following actions to stop the harassment or provide evidence to support a complaint:

- Confront the harasser honestly regarding the harassing behavior, stating clearly that you want the harassment to stop.

- If verbally confronting the harasser is not possible, write a letter to the harasser stating honestly and directly your disapproval of the actions, and that you want the harassment to stop. Always date and retain a copy of the letter.
- Keep clear and detailed accounts of the behavior and your feelings surrounding the events, including your efforts to stop the behavior. Make sure you include the date, time, setting, and any witnesses.
- Seek support from others. Confide in trusted people when harassment occurs, as it is important for other people to know that these incidents are occurring.
- Seek counseling. You may face a crisis that can damage your health, career, and confidence.
- If confronting the harasser is not an option or does not end the harassment, you should report the harassment (see below).

3.2. Whether or not these actions are taken, individuals have the right to initiate informal resolution or to file a formal complaint.

4. INITIATING INFORMAL RESOLUTION OR FORMAL COMPLAINT

4.1. Who to Contact

A member of the Lehigh University community or guest who believes that he or she has been subject to harassment, or any member of the University community who has knowledge of harassment incidents, is encouraged to confer promptly with one of the following people:

- staff member in the Dean of Students office, Director of Women's Center, or Human Resources;
- academic department chair;
- administrator (for the purposes of this policy, administrators include academic associate deans and deans of the four colleges, vice provosts, assistant and associate vice presidents, the provost and vice presidents, and the president);
- the Harassment Policy Officer or ombudsman who are tenured faculty members;
- A list of individuals who can be approached for informal problem resolution can be found at:

<http://www.lehigh.edu/~inhro/eerelat/ContactGuide.htm>

This person will be knowledgeable about the University harassment policy and can offer guidance in obtaining further assistance. He or she may assist in informal resolution (see Section 5). In serious cases, this person will contact the Harassment Policy Officer, the Dean of Students office, or the Manager of Employee Relations and Training in Human Resources about filing a formal complaint (see Section 6).

The complainant may also contact the Harassment Policy Officer, the Dean of Students office, or the Manager of Employee Relations and Training directly about filing a formal complaint.

4.2. Protection from Retaliation

This policy prohibits retaliation against anyone who reports or is believed to have reported harassment, or who is a witness or otherwise involved in a harassment proceeding. Such retaliation will be considered a serious violation of this policy, regardless of whether an informal or formal complaint is upheld. Encouraging others to retaliate is also prohibited.

4.3. Confidentiality

All individuals who are involved in informal and formal resolution procedures, as a result of being consulted by either the complainant or the accused, are obliged to maintain confidentiality of the proceedings. Notwithstanding these precautions, the University cannot and does not guarantee that confidentiality will be maintained by all parties involved.

4.4. Filing Internally versus Externally

The complainant may elect to have a complaint handled internally (within the University) in accordance with the procedures described here, and/or may elect to file a formal charge with a federal or state **agency authorized by law to investigate such claims.**

4.5. Prompt Reporting

Prompt reporting of a complaint is strongly encouraged, as it allows for rapid response to and resolution of objectionable behavior. Complaints should normally be filed within two years after the last act occurred, unless extenuating circumstances precluded reporting a complaint within that time period. This timeframe is to prevent the passage of significant time between an incident and an investigation so that memory lapses, the departure of key witnesses, or other time-sensitive factors do not impair an investigation.

5. INFORMAL RESOLUTION

5.1. In many instances, harassment complaints can be resolved informally. The goal of this informal resolution process is to rectify the problem. This process involves having one of the following people help to resolve the issues between the complainant and the accused: a designated staff member in the Dean of Students office, Director of Women's Center, or Human Resources, an academic department chair, an administrator, or the Harassment Policy Officer.

5.2. This informal resolution may result in solutions such as asking the accused to modify or stop the behavior, separating the complainant and accused, or reaching a mutually acceptable agreement. However, this informal resolution will not result in formal disciplinary action against the accused without a fair process as outlined under Section **6**, Formal Complaint and Resolution.

5.2.1. Examples (not exhaustive) of paths for informal resolution include:

- A faculty member going to college dean with a complaint against department chair.
- An undergraduate student going to an Associate Dean of Students or Director of the Women's Center with a complaint against another student.
- A staff member going to supervisor with a complaint against another staff member, or to the Manager of Employee Relations and Training (Human Resources) if the supervisor is the accused.
- A graduate student going to department chair with a complaint against a faculty member.
- An undergraduate student going to the course instructor or department chair with a complaint against a teaching assistant.
- A teaching assistant going to the course instructor or department chair with a complaint against an undergraduate student.

5.3. Any member of the Lehigh community may take a complaint directly to the Harassment Policy Officer or may seek further informal resolution with the Harassment Policy Officer if efforts to resolve the complaint informally with an academic department chair, administrator, etc. are not successful.

5.4. Any administrator, staff member, or department chair who participates in an informal resolution will report the case and its

resolution to the Harassment Policy Officer who will keep a record of these reports. No record of cases that are successfully resolved through informal resolution will be placed in the complainant's or the accused's personnel or student file.

5.5. If the informal resolution is unsuccessful, or if the complainant is dissatisfied with the informal process, he or she may file a formal complaint with the Harassment Policy Officer, the Dean of Students office, or the Manager of Employee Relations and Training in Human Resources.

6. FORMAL COMPLAINT AND RESOLUTION

6.1. To file a formal complaint, the complainant will meet with the Harassment Policy Officer, an Associate Dean of Students, Director of the Women's Center, or the Manager of Employee Relations and Training in Human Resources to describe the act or acts verbally or in writing. Following this meeting, a detailed written complaint, including the name of the accused, will be prepared. The Harassment Policy Officer, Associate Dean of Students, Director of the Women's Center, or Manager of Employee Relations and Training will give the accused a copy of this written complaint, and will refer the complaint as follows, depending upon whom the complaint is against.

6.1.1. Formal Complaints Against Students: Complaints against students are referred to the Dean of Students office and will be investigated and resolved through the University Student Judicial System. For complaints of harassment, students include individuals whose primary relationship with the University is as a student, including all undergraduate and graduate students and those who are functioning as graduate assistants, research assistants, teaching assistants, and teaching fellows.

6.1.2. Formal Complaints Against Faculty, including all full-time, part-time, and adjunct faculty:

6.1.2.1. Complaints against faculty members are referred to the Harassment Policy Officer (a tenured faculty member) and one additional faculty investigator appointed by the Provost (selected according to Section **6.1.2.1.1.** below).

6.1.2.1.1. The Provost will appoint three faculty investigators for staggered three-year terms. The faculty investigators will be tenured faculty members who have been or will be trained in harassment

issues and investigation. When a formal complaint against a faculty member arises, the Provost will appoint one of the faculty investigators to work with the Harassment Policy Officer on that specific case. A faculty investigator will not accept the assignment if he or she is a member of the same department as the complainant or the accused, or if there is another conflict of interest.

6.1.2.1.2. The Harassment Policy Officer will not investigate a complaint if he or she is a member of the same department as the complainant or the accused, or if there is another conflict of interest. In this situation, the Provost will assign another of the faculty investigators to the case.

6.1.2.2. The Harassment Policy Officer and faculty investigator will promptly conduct a full investigation of the complaint, including interviews with the complainant, accused, and witnesses or reference people requested by the complainant or the accused. The Harassment Policy Officer and faculty investigator reserve the right to determine whom to interview and will interview the complainant, the accused, and witnesses in separate, private sessions. The complainant and accused may each be accompanied in these meetings by an advisor, who must be a current full-time employee or student of the University.

6.1.2.3. The Harassment Policy Officer and faculty investigator will submit a detailed written report to the Provost, including findings of fact and a judgment concerning the evidence and a recommended resolution of the complaint. The Provost will promptly determine the final actions to be taken and communicate these directly to the accused and the complainant, together with a copy of the detailed written report. The faculty member's chair, dean, and the President will also be informed of the outcome. In no case shall any permanent disciplinary action be taken until all appeals, if any, have been exhausted. However, the Provost may, at his or her discretion, impose at any point in the proceedings temporary work restrictions or other measures designed to separate the accused and the complainant. See Section **8** for the right of appeal.

6.1.3. Formal Complaints Against Staff, including all individuals whose primary relationship with the University is as a staff member. Staff members who are enrolled as part-time students or who work on research grants at the University are considered staff. (See Section **6.1.1** for complaints against graduate assistants, research assistants, teaching assistants, and teaching fellows, whose primary relationship with the University is that of student).

6.1.3.1. Complaints against staff are referred to the Harassment Policy Officer and the Manager of Employee Relations and Training. The Harassment Policy Officer will not investigate a complaint if he or she is a member of the same department as the complainant or the accused, or if there is another conflict of interest. The Manager of Employee Relations and Training will not investigate a complaint if he or she is a member of the same department as the complainant or the accused, or if there is another conflict of interest. In either of these situations, the President will assign another staff member trained in harassment issues and investigation to the case.

6.1.3.2. The Harassment Policy Officer and the Manager of Employee Relations and Training will promptly conduct a full investigation of the complaint, including interviews with the complainant, accused, and witnesses or reference people requested by the complainant or the accused. The Harassment Policy Officer and the Manager of Employee Relations and Training reserve the right to determine whom to interview and will interview the complainant, the accused, and witnesses in separate, private sessions. The complainant and accused may each be accompanied in these meetings by an advisor, who must be a current full-time employee or student of the University.

6.1.3.3. The Harassment Policy Officer and the Manager of Employee Relations and Training will forward a detailed written report to the appropriate Vice President, including findings of fact and a judgment concerning the evidence and a recommended resolution of the complaint. The Vice President will promptly determine the appropriate actions to be taken and communicate these directly to the accused and the complainant, together with a copy of the detailed written report. The employee's supervisor and/or manager and the President will also be informed of the outcome. In no case shall any permanent disciplinary action be taken until an appeal, if any, is completed. However, the Vice President may, at his or her discretion, impose at any point in the proceedings temporary work restrictions or other measures designed to separate the accused and the complainant. See Section **8** for the right of appeal.

6.1.4. Formal Complaints Against Administrators or members of the Board of Trustees.

A harassment complaint against an academic associate dean, dean, or vice provost should be referred to the Provost. In consultation with the Harassment Policy Officer, the Provost will select appropriate individuals to investigate and resolve such a complaint.

A harassment complaint against the Provost or other Vice President should be referred to the President. In consultation with the Harassment Policy Officer, the President will select appropriate individuals to investigate and resolve such a complaint.

A harassment complaint against the President or a member of the Board of Trustees should be referred to the Board of Trustees. The Board of Trustees will select appropriate individuals to investigate and resolve such a complaint.

6.2. Accused Party: Protection from Bad Faith Complaints

If the Harassment Policy Officer, Manager of Employee Relations and Training, or Student Judicial System (in student cases) determines that the complaint is intentionally dishonest, the complaint will be dismissed and appropriate disciplinary action will be taken against the complainant.

7. DISCIPLINARY ACTION

7.1. Harassment is a serious offense that will not be tolerated in an educational, working, co-curricular, social, or living environment. Disciplinary action may include, but is not limited to:

- Corrective action or restitution
- Written reprimand
- Requirement to attend training
- Work restrictions
- Suspension
- Demotion with reduction in pay
- Student expulsion
- Termination of employment of University employees¹

8. RIGHT OF APPEAL

8.1. Either the complainant or the accused can appeal a decision. The appeal will be filed as follows, depending upon whom the complaint is against.

8.2. When a student is the accused, the appeal will follow the University Student Judicial System process.

8.3. When a faculty or staff member is the accused, the appeal will be filed as follows:

Complaint against:	Appeal Is Made To:
Faculty	Faculty Personnel Committee
Staff	President
Adjunct Faculty	President

8.3.1. Written appeals in cases against faculty or staff members must be made within 21 calendar days of receiving certified written notice of disciplinary action. The appeal process will be completed promptly.

8.3.2. Grounds for appeal include: **(1)** information is available that was not available at the time of the investigation; **(2)** the University disciplinary procedures were violated in a way that may have adversely affected the outcome of the case; or **(3)** the sanction is inappropriate (i.e., unduly lenient or harsh) and not justifiable.

¹ A move for dismissal of a tenured member of the faculty requires a special procedure involving the Board of Trustees, as per the Rules and Procedures of the Faculty.