

# UNIVERSITY OF CHICAGO

## Policy on Unlawful Discrimination and Harassment

(Adopted by the Council of the University Senate, February 28, 2006)

### I. Introduction

The University of Chicago is a community of scholars dedicated to research, academic excellence, and the pursuit and cultivation of learning. Members of the University community cannot thrive unless each is accepted as an autonomous individual and is treated without regard to characteristics irrelevant to participation in the life of the University. Freedom of expression is vital to our shared goal of the pursuit of knowledge and should not be restricted by a multitude of rules. At the same time, unlawful discrimination, including harassment, compromises the integrity of the University. It is the intention of the University to take necessary action to prevent, correct, and, where indicated, discipline unlawful harassment.

### II. Unlawful Discrimination and Harassment

This policy is the basis for the University's commitment to conform with the law in regard to nondiscrimination and maintaining a workplace free from sexual harassment and other unlawful forms of harassment.

Discrimination based on factors irrelevant to admission, employment, or program participation violates the University's principles. In keeping with its long-standing traditions and policies, the University of Chicago considers students, employees, applicants for admission or employment, and those seeking access to programs on the basis of individual merit. The University does not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity, national or ethnic origin, age, disability, veteran status, genetic information or other protected classes under the law. Such discrimination is unlawful.

Unlawful harassment based on one of the factors listed above is verbal or physical conduct that is so severe or pervasive that it has the purpose or effect of unreasonably interfering with an individual's work performance or educational program participation, or that creates an intimidating, hostile, or offensive work or educational environment.

A person's subjective belief that behavior is offensive, intimidating or hostile does not make that behavior unlawful harassment. The behavior must be objectively unreasonable. Expression occurring in an academic, educational or research context is considered as a special case and is broadly protected by academic freedom. Such expression will not constitute unlawful harassment unless (in addition to satisfying the above definition) it is targeted at a specific person or persons, is abusive, and serves no bona fide academic purpose.

Unlawful harassment includes same sex harassment and peer harassment among students, staff or faculty. Unlawful harassment by a faculty member, instructor, or teaching assistant of a student over whom he or she has authority, or by a supervisor of a subordinate, is particularly

serious.

### *Additional Characteristics of Sexual Harassment and Sexual Assault*

Sexual harassment deserves special mention. Sexual harassment encompasses a range of conduct, from sexual assault (a criminal act that the U.S. Department of Education defines as sexual harassment), to conduct such as unwanted touching or persistent unwelcome comments, e-mails, or pictures of an insulting or degrading sexual nature, which may constitute unlawful harassment, depending upon the specific circumstances and context in which the conduct occurs. For example, sexual advances, requests for sexual favors, or sexually-directed remarks or behavior constitute sexual harassment when (i) submission to or rejection of such conduct is made, explicitly or implicitly, a basis for an academic or employment decision, or a term or condition of either; or (ii) such conduct directed against an individual persists despite its rejection.

Romantic relationships that might be appropriate in other contexts may, within a university, create the appearance or fact of an abuse of power or of undue advantage. Moreover, even when both parties have consented at the outset to a romantic involvement, such consent does not preclude a subsequent charge of sexual harassment against the instructor or supervisor. Because of its relevance to sexual harassment, the University's policy on consensual relations in cases where one person has educational or supervisory authority over another is reproduced under section V, "Policy on Consensual Relations between Faculty and Students and between Supervisors and Employees," below.

### **III. Procedures for the Resolution of Harassment Complaints**

The University's procedures for handling incidents of unlawful harassment place a strong emphasis on resolving complaints informally. The procedures include advising and mediation. It is important to note that the procedures do not preempt other formal or informal channels available within the University.

Persons who believe that their educational or work experience may be compromised by unlawful harassment should feel free to discuss the problem with a department chair, dean, or supervisor and, if desired, to request that department chair, dean, or supervisor to speak informally to the person complained about. If this does not resolve the matter, or if the individual prefers, the concerned party may make use of any or all of the following three avenues for resolution. No one at the University may reprimand or discriminate against an individual for having initiated an inquiry or complaint in good faith.

#### Advising

An individual who feels he or she has been unlawfully harassed may bring the matter to a Complaint Advisor whose role is to discuss with the complainant available options on how to proceed (a list of current Advisors appears in the Student Manual and in the University telephone directory). The advising is intended to provide a forum for free and open discussion between the complainant and the Advisor. Consequently, no record will be kept of the advising conversation other than an incident report that will not contain the names of either the complainant or the accused and

that will be used only to keep a yearly record of the number of different types of reported incidents. Every attempt will be made to protect the privacy of the individuals involved in an advising conversation about unlawful harassment. If the Advisor learns of allegations that are so serious they obligate the University to act, then, upon the recommendation of the Coordinating Officer or Provost, there will be an administrative response, which may include a formal investigation and will include notifying germane administrative or managerial personnel (e.g., department chairperson and/or dean in matters involving faculty members and other academic appointees, and supervisors, managers and/or directors in matters involving staff employees).

Complaint Advisors will be selected and supervised by the Coordinating Officer (a position filled by a member of the Provost's Office) for a two-year term and will be drawn from a variety of different areas throughout the University. (For example, they may be Resident Heads, Deans of Students, the Ombudsman, or faculty members). The number of Advisors should be sufficiently large that individuals from all areas in the University are able to have access to the Advisors. Advisors will be required to participate in a program designed to make them familiar with the issues involved in dealing with unlawful harassment cases.

### Mediation

When a complaint is brought to the Complaint Advisor, the complainant may ask for a mediated meeting with the accused. The goal of the mediation procedure is to provide a forum where the complainant and the accused can, with the aid of a third party, come to a mutually agreed upon resolution. Consequently, mediation will occur only if both the complainant and the accused are willing to participate in the process. The Complaint Advisor may serve as mediator or suggest a third party such as the Coordinating Officer or a faculty member of the Unlawful Harassment Panel (see below) to act as mediator. Mediation will not be used to resolve complaints of sexual assault.

### Formal Investigation

Any person who wishes to discuss a possible complaint of unlawful harassment may use the informal advising and mediation avenues described above. But either the complainant or the accused may at any time ask that the matter under discussion be handled formally rather than informally. The appropriate procedure for a formal complaint depends on who is being accused of harassment.

If the person accused of harassment is a student, a formal complaint should be addressed within the procedures for student discipline described in the Student Manual.

If the person accused of harassment is a staff employee of the University, a staff member from Human Resource Services will guide the employee through the appropriate formal review process. Both parties must be informed of the outcome.

If the person accused of harassment is a faculty member or other academic appointee (such as a Research Associate, Lecturer, or Librarian), the formal complaint procedures described below apply.

## Procedures for Faculty and Other Academic Appointee

Once a formal investigation has been requested, the Unlawful Harassment Panel will move to comply as quickly as possible. The Panel consists of three faculty members appointed by the Provost for three-year terms (with the possibility of reappointment) and the Student Ombudsman (as a non-voting student member). The Coordinating Officer will sit with the Panel ex officio but does not vote. A list of the current members of the Unlawful Harassment Panel can be found in the University Directory.

It is the task of the Panel to determine the facts. At any time in its proceedings, the Panel may decide that the complaint should be rejected as clearly unfounded. The Panel will be provided with written statements from the complainant and the accused, if necessary, will interview persons with knowledge bearing on the matter, including the complainant and the accused. The proceedings will be kept confidential.

If the complaint is found to have merit, the Panel will relay its findings to the Provost who will take appropriate action (for example, a reprimand, leave of absence without pay, invocation of statutory procedures for termination). If the complaint is found to have no merit (or if the facts cannot be established), the complaint will be dismissed. Both parties must be informed of the outcome.

A report of a justified complaint, including the Provost's action, is placed in the accused's official file in the Provost's Office.

### **IV. Yearly Report on Unlawful Harassment to the Council of the University Senate**

A yearly report will be made to the Council of the University Senate (1) detailing the number of different types of incidents of unlawful harassment brought to the attention of the Complaint Advisors or the Unlawful Harassment Panel, and (2) describing the goals of the University-wide program on unlawful harassment and how those goals were implemented during the year. The report will be prepared by the Coordinating Officer and reviewed and approved by the Unlawful Harassment Panel whose Chair will present it to the Council.

### **V. Policy on Consensual Relations Between Faculty and Students and Between Supervisors and Employees**

Because those who teach are entrusted with guiding students, judging their work, giving grades for papers and courses, and recommending students to colleagues, instructors are in a delicate relationship of trust and power. This relationship must not be jeopardized by possible doubt of intent, fairness of professional judgment, or the appearance to other students of favoritism. Supervisory employment relations involve similar obligations of fairness and seeming fairness in the management and evaluation of employees.

One of the tenets of our policy and our commitment to a climate free from sexual harassment has been the view that it is unwise and inappropriate for faculty or other instructors

who have romantic relations with students to teach such students in a class, supervise them in research or graduate work or recommend them for fellowships, awards, or employment, or for employees who have romantic relations with employees under their supervision to maintain their supervisory status.

Such romantic relationships may sometimes develop. Prudence and the best interest of students and employees dictate that in such circumstances of romantic involvement, the faculty member, instructor or supervisor should promptly report the relationship to the appropriate chair, dean or supervisor, who will then help find other instructional or supervisory arrangements in a way that safeguards the welfare of the student or subordinate. Such alternatives may include, for example, ceasing to have the student take courses with the instructor or moving the subordinate employee to a different reporting relationship. Faculty and supervisors should keep in mind that initial consent to a romantic relationship does not preclude a charge of sexual harassment in the future.

## **VI. Compliance and Locating this Policy**

### Regulations Prohibiting Unlawful Discrimination

The University's policy is consistent with federal, state, and local regulations governing non-discrimination and unlawful harassment including, but not limited to: the Age Discrimination in Employment Act of 1967 (as amended), the Americans with Disabilities Act (as amended), the Civil Rights Acts of 1964 and 1991, Executive Order 11246, the Equal Pay Act of 1963 (as amended), the Rehabilitation Act of 1973 (as amended), Title IX of the Education Amendments of 1972 (as amended), Genetic Information Nondiscrimination Act of 2008, Lilly Ledbetter Fair Pay Act of 2009, the Illinois Human Rights Act, the City of Chicago Human Rights Ordinance, and the Cook County Human Rights Ordinance.

### Access to Information on Discrimination and Harassment

The University's Policy on Unlawful Discrimination and Harassment can be found in the Student Manual of University Policies and Regulations (<http://studentmanual.uchicago.edu>) and on University's Human Resource Services Web site (<http://hr.uchicago.edu/policy>). The complete text of the University's unlawful harassment policy can also be found at <http://uchicago.edu/docs/policies/provostoffice/unlawdiscrimharass2006.pdf>. The University's Sexual Assault Policy can be found in the Student Manual of University Policies and Regulations.