

# **TULANE UNIVERSITY POLICIES AND PROCEDURES HARASSMENT AND SEXUAL HARASSMENT**

## **I. Statement of Philosophy**

Tulane University is committed to creating and maintaining a campus environment where all individuals are treated with respect and dignity and where all are free to participate in a lively exchange of ideas. Each student has the right to learn and each employee has the right to work in an environment free of sexual and other forms of harassment and one in which ideas may be freely expressed. At Tulane University, harassment, whether verbal, physical, written, or visual, is unacceptable and will not be tolerated. Harassment is unlawful and hurts all members of the educational community. Each incident of sexual harassment contributes to a general atmosphere in which other members of the victim's sex suffer the consequences and in which all students and employees may feel that their safety and equality are compromised. Other forms of harassment have a similarly negative effect on members of the community. Harassment has no legitimate educational purpose. Any employee or student, male or female, who engages in conduct prohibited by this policy shall be disciplined as provided by law, university policies, and applicable employment agreements. Tulane will not tolerate any harassment of anyone affiliated with Tulane by anyone affiliated with Tulane (including non-employees, such as vendors and independent consultants), and will not tolerate adverse academic or employment actions, including but not limited to, termination of anyone reporting harassment or providing information related to such a complaint. The policy may be found at <http://www2.tulane.edu/equity/reporting-policies.cfm>

## **II. Principles**

Tulane University recognizes the tension between protecting all members of the University Community from harassment and protecting academic freedom and freedom of expression. It is the policy of the institution that no member of the community may harass another. Conduct that reasonably serves a legitimate educational purpose, including pedagogical techniques, does not constitute harassment. In the educational setting within the University, wide latitude for professional judgment in determining the appropriate content and presentation of academic material is required. Those participating in the educational setting bear a responsibility to balance their rights of free expression with a consideration of the reasonable sensitivities of other participants. Therefore, this policy against harassment shall be applied in a manner that protects academic freedom and freedom of expression within the University. Academic freedom and freedom of expression include but are not limited to the expression of ideas, however controversial, in the classroom setting, academic environment, university-recognized activities, or on the campus. Nothing contained in this policy shall be construed to limit the legitimate exercise of free speech, including but not limited to written, graphic, or verbal expression that can reasonably be demonstrated to serve legitimate educational or artistic purposes nor shall this policy be construed to infringe upon the academic or artistic freedom of any member of the University. Artistic expression in the classroom, studio, gallery and theater merits the same protection of academic freedom that is accorded to other scholarly and teaching activities.

## **III. Policy Coverage**

All faculty, administrators, staff, students, and individuals affiliated with Tulane University by contract (including nonemployees, such as vendors and independent contractors) are bound by this policy. This policy protects men and women equally from harassment, including same-sex harassment, and protects students from harassment by other students.

## **IV. Sexual Harassment**

### **A. Definition of Sexual Harassment**

Sexual harassment is unwelcome behavior of a sexual nature by faculty, administrators, staff, students, and individuals affiliated with Tulane University by contract (including non-employees, such as vendors and independent contractors) or by anyone with whom one interacts in order to pursue educational or employment activities at Tulane University. For the purposes of this policy, sexual harassment is defined as unwelcome advances, requests for special favors, and any other verbal, written, physical or other conduct of a sexual nature when:

1. Submission to such conduct by an individual is implicitly or explicitly made a condition of an individual's employment-or educational status or participation in University programs or activities;
2. Submission to or rejection of such conduct by an individual is used as a factor in decisions affecting that individual's ability to learn or participate in school activities, or in hiring, evaluation, retention, promotion, or any other aspect of employment; or
3. Such conduct would be objectively regarded by a reasonable person as substantially interfering with an individual's ability to learn or work or participate in University programs or activities by creating an intimidating, hostile, or offensive school or work environment even if the person engaging the conduct does not intend to interfere, intimidate, or be hostile or offensive.

For purposes of this paragraph 3, the conduct must be sufficiently severe, persistent, or pervasive that it creates a hostile or abusive educational or working environment. For a one-time incident to rise to the level of harassment, it must be severe.

### **B. Examples of Sexual Harassment**

Sexual harassment may include, but is not limited to, the following:

1. Physical assaults of a sexual nature, such as rape, sexual battery, molestation, or attempts to commit these assaults; and intentional physical conduct that is sexual in nature such as touching, pinching, patting, grabbing, poking, or brushing against another individual's body.
2. Offering or implying an employment-related reward (such as a promotion, raise, or different work assignment) or an education-related reward (such as a better grade, a letter of recommendation, favorable treatment in the classroom, assistance in obtaining employment, grants or fellowships, or admission to any educational program or activity) in exchange for sexual favors or submission to sexual conduct.
3. Threatening or taking a negative employment action (such as termination, demotion, denial of an employee benefit or privilege, or change in working conditions) or negative educational action (such as giving an unfair grade, withholding a letter of recommendation, or withholding assistance with any educational activity) or intentionally making the individual's job or academic work more difficult because sexual conduct is rejected.
4. Unwelcome sexual advances, requests for a romantic or sexual relationship to an individual who indicates or has indicated in any way that such conduct is unwelcome, propositions, or other sexual comments, such as sexually oriented gestures, noises, remarks, jokes, questions, or comments about a person's sexuality or sexual experience directed at or made in the presence of any individual.

## **V. Other Forms of Harassment**

Harassment, other than sexual harassment, is verbal, physical, written, or other conduct that denigrates or shows hostility or aversion to an individual on the basis of gender, race, color, religion, age, national origin, ethnicity, disability, veterans status, sexual orientation, marital status, or any basis prohibited by law when from the objective standpoint of a reasonable person such conduct substantially interferes with an individual's work or school performance, creating an intimidating, hostile, or offensive working or learning environment even if the person engaging in the conduct does not intend to interfere, intimidate, or be hostile or offensive.

Harassment based on any of the characteristics listed above is strictly prohibited by this policy. The conduct must be sufficiently severe, persistent, or pervasive that it creates a hostile or abusive educational or working environment. A one-time incident may rise to the level of harassment. However, such conduct must be severe. Complaints of harassment will be investigated and resolved in accordance with the terms of this policy.

## **VI. Retaliation**

No member of the Tulane community will be disciplined for refusing sexual advances, objecting to sexual, racial, or other forms of harassment, or making a good faith report of harassment. Retaliatory or intimidating conduct against any individual who has made a good faith harassment complaint or who has testified or assisted in any manner in an investigation is specifically prohibited and shall provide grounds for a separate complaint. Examples of such retaliatory or intimidating conduct include disciplining, changing working or educational conditions, providing inaccurate information to or about, or refusing to cooperate or discuss work- or school-related matters with any individual because that individual has complained about or resisted sexual harassment. The initiation of a good faith complaint of harassment by a student will not reflect negatively on that student nor will it affect the student's academic standing, rights, or privileges. Likewise, the initiation of a good faith complaint by an employee will not reflect negatively on that employee nor will it affect the employee's working conditions, rights, or privileges.

## **VII. Confidentiality**

Confidentiality will be maintained throughout the entire investigatory process to the extent practicable and appropriate under the circumstances to protect the privacy of persons involved. The persons charged with investigating the complaint must discuss the complaint or the underlying behavior only with persons involved in the case who have a need to know the information, which must include the complainant and the accused harasser. The University is required by law to investigate any complaint of harassment and will strive to protect, to the greatest extent possible, the confidentiality of persons reporting or accused of harassment. However, the University cannot guarantee complete confidentiality where it would conflict with the University's obligation to investigate. Individuals who desire to discuss possible claims of harassment in a more confidential setting to clarify whether to proceed with a complaint may want to consult with a counselor, therapist or member of the clergy, who is permitted by law to assure greater confidentiality.

## **VIII. Complaint Procedures**

All are encouraged to promptly report harassment so that any appropriate action can be taken. The complaint procedures are designed to ensure the rights of the complainant while at the same time according due process to both parties. Complaints may be reported at <http://www2.tulane.edu/equity/reporting-complaints.cfm>

## Complaint Procedures:

1. Form of Complaint. Complaints of harassment will be accepted orally or in writing. Anonymous complaints will be accepted and investigated to the extent possible. Complaint forms are available in several locations, including the Office of Institutional Equity, <http://www2.tulane.edu/equity/reporting-complaints.cfm>. A complaint need not be made on an official form in order for the University to accept it.
2. Content of Complaint. Any individual who believes she or he is being harassed or has been harassed in violation of this policy should promptly file a complaint including the following information, if known to the complainant: the name of the complainant, a brief description of the offending behavior including times, places, and the name of or identifying information about the alleged perpetrator, and the names or descriptions of any witnesses to the harassment.
3. Reporting the Complaint. It is not necessary to first confront the harasser prior to instituting a complaint under this policy. However, it is appropriate to promptly report a complaint so that a full and complete investigation is possible. Any person designated to receive complaints from students, employees, or faculty must notify the Office of Institutional Equity within twenty-four (24) hours of receiving a harassment complaint.

### a. Complaints by Students

A student who believes she or he has been harassed or is being harassed may report the alleged harassing behavior online at <http://www2.tulane.edu/equity/reporting-complaints.cfm> or to any of the following individuals:

- Dean or Dean of Students of school (or person designated by the Dean) with which complaining student is affiliated (SPHTM: Dean Buekens, Sr. Associate Dean White or Associate Dean Stranova)
- Office of Institutional Equity, Uptown Square, 200 Broadway, Suite 105A, Phone: 504-862-8083

### b. Complaints by Staff

An employee who believes he or she is being harassed or has been harassed in violation of this policy may report the alleged harassing behavior online at <http://www2.tulane.edu/equity/reporting-complaints.cfm> or to any of the following individuals:

- Direct supervisor
- Dean of the school (or person designated by the Dean) with which complaining employee is affiliated (SPHTM: Dean Buekens, Sr. Associate Dean White, Associate Dean Stranova)
- Office of Institutional Equity, Uptown Square, 200 Broadway, Suite 105A, Phone: 504-862-8083

### c. Complaints by Faculty

A faculty member who believes he or she is being harassed or has been harassed in violation of this policy may report the alleged harassing behavior to any of the following individuals:

- Department Chairperson
- Dean of the school (or person designated by the Dean) with which complaining faculty member is affiliated (SPHTM: Dean Buekens, Sr. Associate Dean White, Associate Dean Stranova)

- Office of Institutional Equity, Uptown Square, 200 Broadway, Suite 105A, Phone: 504-862-8083

## **IX. Investigation and Informal Resolution of Harassment Complaints**

- A. Initial Investigation. After receiving a complaint of harassment directly from a student, faculty member, staff member, or administrator, or indirectly from a person designated to receive complaints, the Office of Equal Opportunity shall promptly conduct an initial investigation.
- B. Informal Process. The University has an informal process to provide those who believe they are being harassed with a range of options designed to bring about a resolution of their concerns. Depending upon the nature and severity of the complaint and the wishes of the person(s) claiming harassment, informal resolution may involve one or more of the following or other appropriate actions:
  1. Advising the person(s) about how to communicate the unwelcome nature of the behavior to the alleged harasser;
  2. Distributing a copy of the sexual harassment policy as a reminder to the department or area whose behavior is being questioned;
  3. If both parties agree, arranging and facilitating a meeting between the person(s) claiming harassment and those accused of harassment to work out a mutual resolution. Students are also encouraged to seek advice or counseling from Educational Resources and Counseling, 865-5113, whether or not they decide to pursue a formal complaint. Informal resolution may not be appropriate in certain circumstances. While dealing informally with a problem of harassment may be preferable to the complainant, a formal grievance procedure must be followed in order for the University to impose any kind of discipline on the offender. The University will proceed with the investigation and formal resolution process when deemed appropriate by the Office of Equal Opportunity.

## **X. Investigation and Formal Resolution of Harassment Complaints**

- A. Formal Investigation. If the complaint cannot be informally resolved after the initial investigation, the Office of Equal Opportunity shall continue the investigation or designate someone to promptly conduct further investigation of the complaint, which may in some circumstances be an outside neutral third party. In many instances, the Office of Equal Opportunity will designate the individual or committee within the school or department where the complaint arises to investigate complaints. The persons charged with investigating the complaint must discuss the complaint or the underlying behavior only with persons involved in the case who have a need to know the information, including the complainant and the accused harasser.

In the case of a complaint against a faculty member, the grievance committee of his or her school within Tulane University shall be the committee to investigate harassment complaints. The committee chair shall notify the Office of Equal Opportunity, in writing, of the findings as well as any action taken or recommendations made by the committee based on those findings. In the case of a complaint against a student, the Office of Equal Opportunity will investigate, or will designate Tulane Public Safety to investigate. In all cases the Office of Equal Opportunity shall notify the Office of Student Affairs, in writing, of the findings of the investigation. In the case of a complaint against a staff member or non-employee individual affiliated with Tulane (including vendors and independent

contractors), the Office of Equal Opportunity shall investigate and make recommendations to the appropriate supervisor as to any action to be taken.

- B. **Resolution Within 30 Days.** Within (30) working days of receiving the complaint, the Office of Equal Opportunity or its designee, including the appropriate school grievance committee, shall make a finding of whether harassment occurred. If the investigation cannot be concluded within that time, the Office of Equal Opportunity shall notify the complainant, and the General Counsel who shall designate the appropriate person or faculty committee to promptly conclude the investigation.
- C. **Objectivity.** The complainant and the accused are entitled to an investigation conducted by an impartial investigator. Thus, if the persons charged with overseeing or investigating harassment complaints are implicated in the complaint, or have any personal issue that would cause a conflict of interest, the committee member or members shall recuse themselves from the proceeding. Alternatively, the Equal Opportunity Officer shall conduct the investigation and make findings or shall designate someone impartial to do so, which may in some circumstances be an outside neutral third party.
- D. **Notice of Outcome.** Complaints against Faculty, Staff and Non-Employee Individuals Affiliated with Tulane. No more than five (5) working days after a decision has reached, the Equal Opportunity Officer shall notify the parties to the proceeding, in writing, of the findings and the outcome of the investigation. Complaints against Students. No more than five (5) working days after a decision has been reached, the Office Student Affairs shall notify the parties to the proceeding, in writing, of the findings and the outcome of the of investigation.
- E. **Sanctions.** Individuals found to have engaged in harassment shall be disciplined appropriately. Appropriate sanctions, ranging from a warning to dismissal, will be determined based on the severity of the conduct and in accordance with the provisions of applicable statutes, employment contracts, university policies, disciplinary procedures for faculty as described in the Faculty Handbook, disciplinary procedures for staff as described in the Staff Handbook and disciplinary procedures for students as described in the Code of Student Conduct and other student discipline codes.

## **XI. Appeals**

An appeal by either the complainant or the accused must be filed in writing with the Office of Equal Opportunity within ten (10) working days of receiving written notice of the outcome of the investigation. Responsibility for reviewing appeals will turn on the identity of the accused. Where the accused is a student, the appeal shall be reviewed in accordance with appeals procedures described in the Code of Student Conduct. Where the accused is a staff member, the Vice President for Human Resources will review appeals. Where the accused is a faculty member, the Faculty Tenure Freedom and Responsibility Committee of the University Senate will review appeals in accordance with the grievance procedures described in Article IX, Paragraph G, Section 2 of the Faculty Handbook. In exceptional circumstances, except in cases involving faculty, an appeal may be reviewed by an outside neutral third party.