



## Policy on Harassment

Policy Effective Date: August 9, 2015

### Purpose

The University of Tulsa is committed to fostering a civil campus community. The University expects participants in this community to support an employment, educational, co-curricular, social and living environment in which all participants are free from unlawful or otherwise inappropriate conduct on any basis, actual or perceived.

Indeed, the University expects of all such participants that they will treat each other respectfully and refrain from any inappropriate conduct, especially conduct that rises to the level of being prohibited under this policy. Such conduct is unacceptable behavior and will not be tolerated. The purpose of this policy is to protect participants from conduct which is unsolicited, unwelcome and inappropriate, in any form and by any means. This policy may not be used to infringe upon academic freedom, but will guide social and professional interactions.

All participants in the campus community must be aware of the need for freedom of inquiry and openness of discussion in the University's educational and research programs, and must strive to create and maintain an atmosphere of intellectual seriousness and mutual tolerance in which these essential features of academic life can thrive. No university can or should guarantee that every idea expressed on its premises or through its media will be inoffensive to all; pursued seriously, campus residential life, participation in campus community, education and scholarship, at times entail raising questions about perceived opinions and conventional interpretations. The University of Tulsa does guarantee, however, that credible accusations of inappropriate conduct under this policy will be investigated promptly, thoroughly, and fairly.

### Who is Covered

This policy applies to all full-time, part-time, and temporary faculty members, administrative/ professional and hourly employees, trustees, students, contract workers, business invitees, visitors and guests (collectively, the "Campus Community"), at all times and places in any connection with this institution, whether on or off campus. This policy shall be applied and interpreted in conjunction with the following existing documents (and any amendments or successor documents): *The Statement on Academic Freedom Responsibility and Tenure* (faculty); *The Student Code of Conduct* and *The University of Tulsa Statement on Rights, Freedoms and Responsibilities* (students); *The University Policies and Procedures Manual* (non-faculty employees); *The University of Tulsa Policy on Non-Discrimination*, as adopted by the Board of Trustees on September 18, 1991 and *The University of Tulsa Student Pledge and Commitment*, created and approved by the student body and accepted by the Board of Trustees in the Fall of 2003. Additionally the *Ethical Conduct in Academic Research and Scholarship* policy may also apply to any situation. All of these documents are available online, and as links in this policy.

### Policy

Any form of inappropriate conduct that constitutes Prohibited Harassment (see following definition) of or by any participants in the Campus Community is prohibited by this policy.

Such conduct may also constitute violations of criminal and civil laws of the State of Oklahoma and the United States, and the accused may be charged by appropriate external agencies. Further, such conduct may also constitute violations of the Sexual Assault Policy protecting students or other university policies (or amended or successor policy).

Such conduct most often takes place in situations with a power differential between the persons involved; the university also recognizes that it may occur between persons of the same Campus Community status.

The University of Tulsa will take appropriate actions within its power to prevent, correct, and discipline conduct that violates this policy.

## A. Definition of Prohibited Harassment

(1). General - Conduct which is prohibited by this policy (herein referred to as "Prohibited Harassment") may be verbal, physical, or visual; it may be conduct related to favoritism, or based upon a person's legally protected status, or any actual or perceived status that motivates inappropriate conduct, such as inappropriate conduct based on color, age, disability, gender, gender identity, national or ethnic origin, race, religion, sexual orientation, veteran status, marital status or personal physical trait. Prohibited Harassment also may include inappropriate conduct harmful to an individual's reputation.

(2). Verbal/Physical/Visual - Verbal Prohibited Harassment may occur in person, by telephone or other audio means. Physical Prohibited Harassment may be conduct such as assault, impeding or blocking movement or any physical interference with normal activities or movement. Visual forms of Prohibited Harassment may include notes, email, blogging or other electronic means, derogatory posters, cartoons, graffiti or drawings.

(3). Reputation - Prohibited Harassment related to an individual's reputation may include any form of inappropriate conduct which is defamatory, demeaning, intimidating, threatening, or otherwise places an individual in fear of harm to his or her person or reputation on or off campus.

(4). Sexual Harassment - Sexual harassment is defined by law and also constitutes Prohibited Harassment; generally under the law, it includes any unwanted or unsolicited sexual gesture, physical contact, or statement which, when viewed from the perspective of a reasonable person similarly situated, is offensive, threatening, humiliating, or interferes with a person's ability to perform his or her job, educational pursuit, or participation in campus life.

(5). Sexual Favors - Conduct which constitutes Prohibited Harassment related to sexual favors includes unwanted sexual advances which condition terms of employment, academic opportunity, housing options or other benefit upon sexual favors.

(6). Favoritism in General - Conduct related to favoritism on the basis of any of the above identified characteristics may constitute Prohibited Harassment where someone suffers harm, such as loss of job promotion or course work opportunity, due to the conduct. Prohibited Harassment may also include preferential treatment of one or more individuals, to the detriment of others.

(7). Standard - For each of the foregoing examples, under this policy, the standard of determining whether Prohibited Harassment occurred shall be the perspective of a reasonable person similarly situated; these examples are meant to be illustrative and are not all inclusive. Conduct which constitutes Prohibited Harassment, under this policy may or may not also be unlawful. An occasional remark or act which may hurt feelings, or otherwise offend, will not necessarily rise to the level of Prohibited Harassment under the reasonable person standard.

## B. Prohibited Acts

(1). Effect of Conduct Assessment - For the purpose of this policy, Prohibited Harassment may take many forms - subtle and indirect, or blatant and overt. It may consist of repeated actions or may even arise from a single incident if sufficiently extreme. In assessing whether a particular act or acts constitute Prohibited Harassment under this policy, the standard shall be the perspective of a reasonable person similarly situated.

Prohibited Harassment includes any conduct or behavior of an inappropriate nature where:

- a. Submission to or acceptance of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or participation in a university-sponsored educational program, activity or in campus residency;
- b. Submission to or rejection of such conduct by an individual is used as the basis for academic, housing or employment decisions;
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or of creating an intimidating, hostile or offensive working, educational or campus living environment;

(2). Examples - Some examples of Prohibited Harassment include, but are not limited to:

- a. unwelcome physical contact or intentional physical contact without consent:

- a. unwelcome physical contact or intentional physical contact without consent;
- b. physical assault, including date or acquaintance rape;
- c. verbal or written comments or statements that are intimidating, threatening, demeaning, humiliating, sexually suggestive, insulting, vulgar, or lewd;
- d. unwelcome visual contact that communicates a threatening or intimidating sexual message;
- e. unwelcome request for sexual favors or acts, or other inappropriate requests;
- f. requests for dates or a more personal relationship (whether sexual or not) by an individual who is, or is perceived to be, in a position of authority able to affect the campus status of the individual subject to the request;
- g. inappropriate conversations of a sexual nature or similar jokes and stories, whether sexual or related to any actual or perceived status as set out at A.1 hereinabove;
- h. continued expression of sexual interest after being informed that the interest is unwelcome;
- i. the inappropriate use or display of materials such as posters, photos, cartoons or graffiti that are demeaning or offensive;
- j. inappropriate comments, communicated by any means, that demean, intimidate, threaten or harm an individual's reputation;
- k. telephone or other audio contact, letters, notes, blog or other postings, or electronic mail containing comments, words, or images as described above;
- l. "bullying", "stalking", or activities which may constitute "hazing", as defined by Oklahoma and/or other state laws;

The facts and circumstances will be determinative of whether any of the above or other behaviors would violate this policy, under the reasonable person standard.

(3). Relationships - Prohibited Harassment may occur within a variety of relationships, including classroom situations involving instruction, online chat rooms, departments (faculty or staff) or campus life. It may occur among peers. It may occur where no relationship exists between the parties other than being co-employees or co-students, or simply interaction for other reason. Especially injurious, however, is Prohibited Harassment in relationships characterized by an imbalance of power and authority. Typically, such relationships are found between:

- a. employer and employee [usually supervisor and subordinate]
- b. administrator and faculty
- c. administrator and student
- d. employee and student
- e. senior and junior faculty
- f. graduate assistant and undergraduate student
- g. faculty and student [Examples are when the student is enrolled in a faculty member's class, or when the student is in a position to require continuing evaluation or work or letters of recommendations from faculty]
- h. vendor representative and TU employee

### **C. Other Conduct Prohibited by the Policy on Harassment**

#### (1). Reprisals/Retaliation -

- a. Against the Complainant: It is a violation of the Policy on Harassment to retaliate against a complainant for filing a charge of Prohibited Harassment. A complaint of retaliation will be pursued using the steps followed for a complaint of Prohibited Harassment.
- b. Against the Accused/Respondent: Lodging a complaint of Prohibited Harassment does not constitute proof. A complaint shall not be taken into account during reappointment, tenure, promotion, merit, or other evaluation or review until a final determination has been made that the Policy on Harassment has been violated; however, a decision on such matters may be delayed, pending the resolution of an investigation.
- c. Administrators and supervisors have the legal responsibility to protect a complainant or victim from continued Prohibited Harassment or retaliation and a person accused of Prohibited Harassment from potential damage by false allegations.

#### (2). Knowingly False or Malicious Complaints -

- a. To file a knowingly false or malicious complaint of Prohibited Harassment or of retaliation is a violation of the Policy on Harassment, under the reasonable person standard.
- b. A complaint that a knowingly false or malicious complaint has been filed will be pursued using the

steps followed for a complaint of Prohibited Harassment.

c. A credible complaint under C.(2).b. shall not constitute prohibited retaliation.

#### **D. Prompt Attention**

Complaints of Prohibited Harassment, submitted in writing or orally, are taken seriously and will be dealt with promptly. Anonymous complaints of Prohibited Harassment will be taken seriously and may be investigated. Allegations of Prohibited Harassment shall be evaluated on the facts of the particular case and the context in which the alleged incident(s) occurred. The complainant has the responsibility of providing all known relevant evidence of the alleged Prohibited Harassment, including names of witnesses, dates, times, places and other pertinent information.

#### **E. Confidentiality**

Throughout the complaint and investigation process, every effort will be made to assure and provide confidentiality to the fullest extent reasonably possible to protect against retaliation. Subject to applicable law, communication will be limited to a minimum "need to know" basis, coupled with a directive not to discuss the matter outside the process. However, the investigation of such complaints will generally require disclosure to the accused party and other witnesses in order to gather pertinent facts.

#### **F. Disciplinary Actions for Violations of the Policy on Harassment**

Disciplinary actions for violations of the Policy on Harassment can include: oral and/or written reprimand, reassignment, suspension, counseling, demotion, termination, probation, dismissal or any combination thereof. Offenders may be disciplined under the appropriate governing code of conduct (See "Who is Covered", First paragraph, hereinabove). Sanctions for Prohibited Harassment depend upon the circumstances in each case.

#### **G. Statement on Consenting Relationships**

(1). Be Aware - The intent of the Policy on Harassment, with regard to consenting relationships, is to inform the Campus Community of the expectation that individuals will not engage in Prohibited Harassment, rather than to prevent personal and social relationships. However, it should be understood by all members of the Campus Community that sexual relationships, which occur in the context of educational/employment supervision and evaluation or their equivalent, are generally deemed unwise even when the parties consent, because of the underlying power imbalance in such relationships.

(2). No Defense I - It is incumbent upon those with authority not to abuse or appear to abuse the power with which they have been entrusted. Should a charge of Prohibited Harassment be brought by a person in a subordinate position, "consent to the relationship" shall not be deemed a sufficient defense or justification for conduct which otherwise would be deemed Prohibited Harassment under the university's policy.

(3). No Defense II - This concept of "consent" also extends to conduct among individuals engaged in non-sexual relationships, particularly where there is a power differential, such as faculty/student or supervisor/employee. Examples include inappropriate conduct or remarks by someone in a position of actual or perceived authority, at after-hours social gatherings, intimidating, or otherwise inappropriate conduct by a senior colleague to a junior colleague, etc.

#### **H. Informational Sessions**

The University of Tulsa will conduct informational sessions (either in person or online) on the Policy on Harassment for all new employees, including faculty. In addition, each employee will be required to take a "refresher" course (usually offered online) on at least a biannual basis. Students will have the opportunity to attend a Policy on Harassment training session during their orientation session and at other times during the academic year. Trustees will be advised of such informational sessions. These sessions will address strategies for preventing Prohibited Harassment in order to allow individuals to reach their full potential within their roles in the Campus Community. Individuals who attended a session under the predecessor sexual harassment policy (which is replaced by this Policy on Harassment) will be provided a copy of this policy and are expected to review it, ask questions or complete a session on this policy, in order to be fully informed.

#### **I. Pursuit of Complaint Outside the University**

This policy does not preclude anyone from pursuing a complaint, at any stage of the process, with any external agency or other entity (such as an incident occurring where a student is in an internship or field placement, a faculty member is visiting at another institution, etc.).

#### **J. Responsibilities of Faculty, Administrators and Supervisors**

(1). Duty to Act - University faculty, administrators, and supervisors are responsible for fostering and maintaining a work place, educational and living environment that results in a campus culture where Prohibited Harassment

a work place, educational and living environment that results in a campus culture where Prohibited Harassment is not tolerated. Faculty, administrators and supervisors have a legal obligation to act whenever they learn--directly or indirectly--about the occurrence of Prohibited Harassment. Faculty, administrators and supervisors shall immediately notify the appropriate University officers (see below, Procedure A-4).

(2). Failure to Act - Failure of faculty, administrators or supervisors to notify the appropriate University officer or the Office of Human Resources of allegations of Prohibited Harassment, or failure to take timely corrective action as advised, may be a violation of University policy and of the law. Faculty, administrators or supervisors who engage in such misconduct may be subject to appropriate disciplinary action, under this or other policies.

## **K. Record Keeping**

The Office of the Provost, Office of Human Resources and the Office of Student Affairs will track reports of Prohibited Harassment for statistical purposes and report at least annually through the Office of Human Resources to the University President concerning their number, nature, and disposition.

### **Procedure**

A. Investigations of Prohibited Harassment complaints will be formally administered by the appropriate University officer, or the Office of Human Resources. These offices shall have the final determination of discipline based primarily upon the investigations and recommendations derived from the outlined process; however, discipline shall be subject to the appropriate process as set out in documents identified hereinabove under "Who is Covered". Successor documents to those identified herein will replace the named documents, upon adoption; any process underway at the time of adoption of an amended (or successor) document will continue under the document in place at the time the process began, unless both complainant and the accused agree in writing to proceed under the new documents.

(1). Reporting Option - An incident of perceived Prohibited Harassment may be reported to any University official or faculty member, including an individual's supervisor, department chair or dean, or the appropriate University officer, or the Office Human Resources.

(2). After Hours Reporting - Individuals who need to report a perceived incident of Prohibited Harassment after regular business hours of the University should report the incident to the Campus Security Office. The Campus Security Office will take appropriate action regarding the report, at the time received, and will notify the appropriate administrative office at the beginning of the next business day.

(3). Visitors - Perceived incidents of Prohibited Harassment involving visitors should be reported directly to the appropriate University officer or the Senior Administrator with appropriate oversight responsibility, or, if after regular business hours, to the Campus Security Office.

(4). Appropriate University Officer - The University of Tulsa designates appropriate University officers to handle allegations of Prohibited Harassment. The offices and officers responsible for investigation of allegations of alleged Prohibited Harassment, depending on the specific circumstances are: Associate VP of Human Resources and Risk Management or his/her designate (Office of Human Resources); Provost or his/her designate (Office of the Provost); Dean of Students or his/her designate (Office of Student Affairs), or persons holding the successor titles to these positions.

(5). Other Than Appropriate University Officer - Individuals who witness possible Prohibited Harassment, or who receive a report of possible Prohibited Harassment, should immediately notify the appropriate University officer or the Office of Human Resources. Individuals should not take any action to investigate, or resolve the matter informally and must act only on direction from such office. After hours incidents should be reported to the Campus Security Office.

(6). Referral to Other Entity - Complaints involving only individuals who do not come within the jurisdiction of an internal University complaint resolution procedure (e.g. complaints between guests on campus, etc.) may be referred to other entities for handling.

## **B. Complaint Process**

(1). Informal Complaint Process

a. In the event that an individual believes Prohibited Harassment has been or is occurring, he or she will be encouraged to communicate clearly, preferably in writing (keep a copy), to the alleged harasser and state that the conduct is not acceptable. The individual is also encouraged to maintain careful written records of the perceived Prohibited Harassment and to continue maintaining current records throughout the process.

i. The individual will be given an opportunity to meet with an appropriate University officer to discuss the Prohibited Harassment allegation. If an individual cannot decide whether to initiate a formal complaint or is reluctant to discuss the matter with the supervisor, he or she may seek the advice and counsel of an appropriate University officer who, with the individual's permission, may seek to resolve the issue informally through discussions with the supervisor and the accused.

ii. A signed, written complaint shall not be required to initiate the informal complaint process. If the individual does not wish to prepare a signed, written complaint, written documentation shall be prepared by an appropriate University officer or representative of the Office of Human Resources. Such written documentation shall include the nature of the complaint and the date(s) on which the alleged incident(s) occurred. The complaining individual shall be asked to read the written documentation prepared by the appropriate University officer to correct and acknowledge its accuracy; a written acknowledgement will be preferred and may be made in a separate document.

iii. Written documentation shall be prepared before any informal discussions are held with the supervisor and the accused. The accused shall be given an opportunity to read the written documentation, which may be edited by the appropriate University officer or Office of Human Resources to protect the anonymity of the complaining individual.

iv. The University will proceed on an informal complaint, even if the individual does not wish to do so, to either confirm the allegations or take appropriate action or to clear the name of the accused from a malicious or unwarranted complaint.

v. If the parties are unable to reach a mutually satisfactory agreement after meeting, the option of filing a formal complaint is still available.

## (2). Formal Complaint Process -

a. If an individual wishes to file a formal complaint, he/she must submit a signed written statement alleging Prohibited Harassment, to the appropriate University officer. Documentation should include the name of the complainant, the name of the accused, the nature of the complaint, date(s), witnesses, the name(s) of the person(s) who received the complaint, and any other information relevant to the case. If some of this information is not available, the reason(s) for unavailability, if known, should be documented.

b. The appropriate University officer will investigate all formal Prohibited Harassment complaints according to the following procedures:

i. When a formal complaint is made naming the accused individual, that accused individual shall be informed as soon as possible and in accordance with the appropriate procedures governing the individual participants in the Campus Community. The accused will not be informed of the name of the accuser or the name of the alleged victim unless and until they each have consented. If the complainant does not consent to disclosure of his or her name, the investigation will proceed pursuant to the discretion of the appropriate University officer, in the best interests of preventing future Prohibited Harassment, whether against the complainant or others. In no event will a sanction be imposed without the accused having an opportunity to respond, in writing, to a formal complaint.

ii. The appropriate University officer (or the officer's designee) shall gather relevant evidence by interviewing the complainant, the victim (if not the complainant), the accused, and any witnesses determined to be appropriate.

iii. A copy of the complaint will be provided to the accused. The accused will be given an opportunity to respond to the complaint orally and in writing, and may provide evidence and/or witnesses.

iv. Investigations, and if appropriate, hearings shall be conducted in accordance with the appropriate governing document (See "Who Is Covered", first paragraph, hereinabove).

v. Once a determination has been made by the appropriate University officer, and, if appropriate, the Office of Human Resources both the complainant and the accused will be notified of any finding and action to be taken. Pursuant to FERPA (Family and Educational Rights to Privacy Act), disciplinary student records will remain confidential unless the affected student (complainant, accused, or witness) provides written consent to release of information.

vi. If either party disagrees with the determination made and/or the action taken, he/she may make an appeal in accordance with the appropriate governing university procedures. (See "Who is Covered", first paragraph, hereinabove). Appeals shall be limited to a review of the investigation, and the initial conclusion may be revised if appropriate; however, no new investigation will be brought about from an appeal.

## **WHOM TO CONTACT**

This is a contact list for your file of whom to call for guidance, information, or informal resolution.

Informal Complaints - Contact any of the following persons on campus:

Your supervisor, chair, director, or dean

The Employee Relations Coordinator, Stephanie Daniels (631-2615)

The Director of Human Resources, Sherry Eskew (631-2250)

The Associate V.P. for Human Resources and Risk Management, Wayne Paulison (631-2616)

The Provost, Roger Blais (631-2554) (faculty)

Associate V.P. for Enrollment & Student Services, Dean of Students, Yolanda Taylor (631-2965) (students)

The Director of Campus Security, Joe Timmons (631-5555)

If a student is involved in any way, please also contact the Dean of Students.

**The authority to grant exception to one or more of these policies and procedures is vested with the President of The University of Tulsa or his/her delegated representative(s).**