

ANTI-HARASSMENT POLICY

Responsible Department: Human Resources

Responsible Administrator: Associate Vice President for Human Resources

Effective Date: October 5, 2009

Date of Scheduled Review: October 5, 2013

I. PURPOSE

As a Christian community, Abilene Christian University has committed itself, unequivocally, to ensuring a working and learning environment in which the dignity of every individual is respected. Therefore it is the purpose of this policy to maintain a work and academic environment that is free of harassment, sexual or otherwise.

II. SCOPE

This policy applies to all members of the ACU community, including trustees, faculty, staff, students, and volunteers at Abilene Christian University.

III. POLICY

- A. Prohibition Against Harassment. Harassment, as defined in Section IV, will not be tolerated at Abilene Christian University. Harassment is unchristian and uncivil behavior. It expresses disrespect. It exploits and undermines relationships based on trust. It interferes with learning and productive work. In short, it is a breach of community. Moreover, depending on the circumstances, it may violate federal and state laws prohibiting discrimination and harassment based on sex, religion, race, age, color, national origin, covered veteran's status or disability.
- B. Responding to and Reporting Harassment. Any person who experiences harassment or who otherwise becomes aware of such an incident may object to this behavior by telling the perpetrator to stop and should promptly report the incident pursuant to this policy (See Section V.). Such harassment allegations must be made in good faith. A harassment complainant whose allegations are found to be deliberately false and malicious will be subject to disciplinary action which may include but is not limited to, written warning, demotion, transfer, suspension or dismissal.
- C. Non-Reprisal. No member of the ACU community (including but not limited to university contractors or vendors) may be subject to restraint, interference, or reprisal by any employee or student for actions taken in good faith to seek advice concerning a harassment matter, file a harassment complaint, or participate in a harassment investigation or appeal. Moreover, because a claim of harassment is not proof of prohibited conduct, a claim shall not be taken into account during performance review, promotion, reappointment, or other evaluation unless a final determination has been made that this policy has been violated. If necessary and appropriate, such decisions shall be deferred until the claim is resolved.

- D. Notification and Training – In an attempt to prevent harassment, ACU will provide all employees and students with annual notification regarding the anti-harassment policy and offer periodic harassment training for certain faculty, staff members, and officers of student clubs and organizations, who will be required to participate in such training.

IV. DEFINITIONS AND EXAMPLES

- A. “Harassment” – unwelcomed behavior or conduct based on sex, religion, race, age, color, national origin, veteran's status, disability, or any other characteristic protected by law when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, or participation in University programs or activities, (2) submission to, or rejection of, such conduct by an individual is used as the basis for a decision affecting an individual's employment, education, or participation in University programs of activities, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment for work, education, or participation in a University program or activity. It should be noted that the University is exempted from certain legal prohibitions against religious discrimination as set out in its Nondiscrimination Policy. Moreover, this definition does not intend to give individuals any protection greater than that afforded by the applicable law with respect to religious discrimination.
- B. “Sexual Harassment” - Unwelcome sexual advances, requests for sexual favors, and other behavior or conduct of a sexual nature constitute sexual harassment when conditions (1), (2) or (3) under the definition of “Harassment” are met.
- C. Harassing “Behavior or Conduct” - Harassment can be verbal, visual, physical or communicated in writing or electronically. Harassment can occur under the guise of humor; the victim as well as the harasser may be a woman or a man; the victim does not have to be of the opposite sex; the harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or a non-employee such as a vendor or customer; the victim does not have to be the person harassed but could be anyone affected by the offensive conduct; and unlawful sexual harassment may occur without economic injury to or discharge of the victim. Examples of the kinds of conduct that may constitute harassment and which are strictly prohibited by this policy include, but are not limited to the following:
1. *Sexual Harassment.*
 - a. Unwelcomed sexual propositions, invitations, solicitations and flirtations.
 - b. Threats or insinuations that a person's status or other condition may be either adversely affected by not submitting to sexual advance or positively affected by submitting to sexual advance.
 - c. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendos; unwelcome suggestive or insulting sounds or whistles; obscene phone calls.

- d. Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or study area, that may embarrass or offend individuals. Such material, if used in an educational setting, should be clearly and significantly related to educational purposes.
- e. Suggestive or sexually explicit posters, calendars, photographs, graffiti, cartoons, including those generated from Internet or email sources.
- f. Unwelcome and inappropriate hugging or touching, such as rubbing or massaging someone's neck or shoulders, stroking someone's hair, or brushing against another's body, patting or pinching; obscene gestures.
- g. Sexually suggestive touching.
- h. Grabbing, groping, kissing, fondling.
- i. Violating someone's personal space.
- j. Leering, staring, stalking.
- k. Offensive letters, email, text messages, posts on social networking sites, internet images or transmissions or voicemail messages.
- l. Questions about one's sex life or experience.
- m. Sexual assault or rape.
- n. Consensual dating or sexual relationships which may reasonably lead to the appearance or reality of favoritism of a student or subordinate employee with whom the teacher or supervisor has such a relationship, and where such favoritism adversely affects either students and/or employees.

2. *Other Types of Harassment*

- a. Threats or insinuations that a person's status or other condition of employment or academic status may be adversely affected because of one's sex, religion, race, age, color, national origin, veteran's status, disability, or any other characteristic protected by law.
- b. Unwelcome verbal expressions, derogatory comments, epithets, degrading jokes, or innuendos regarding one's gender, religion, race, age, color, national origin, veteran's status, disability or any other characteristic protected by law.
- c. Posting objects, pictures, videotapes, audio recordings or literature that may embarrass or offend an individual because of one's gender, religion, race, age, color, national origin, veteran's status, disability, or any other characteristic protected by law. Such material, if used in an educational setting, should be clearly and significantly related to educational purposes.
- d. Leering, staring, stalking.
- e. Offensive posters, letters, emails, text messages, Internet images and transmissions, or voicemail messages.

V. PROCEDURES

A. Reporting or Inquiring About Harassment - A complaint may be filed formally or informally. However, whether an individual files a formal or informal complaint, if the University becomes aware of conduct which may violate this policy, the University will take appropriate remedial action, which may include an investigation of the conduct.

- i. *Informal Complaint* – Before filing a formal complaint, some people may wish to informally confront the conduct or may be uncertain as to whether what they are experiencing is harassment. Informal complaints should be made using the following reporting structure, which is also outlined in the [linked chart](#):
 - a. If the alleged offender is a Trustee or University Officer: report to the Board Chair or to the Office of Legal Services.
 - b. If the alleged offender is a faculty member: report to your dean. If it is not appropriate to report to the dean for any reason, report to the Provost.
 - c. If the alleged offender is a staff member: report to your immediate supervisor. If it is not appropriate to report to your immediate supervisor for any reason, report to your supervisor's superior.
 - d. If the alleged offender is a student or student employees: report to the Vice President for Student Life. If the incident relates to a student's employment at ACU, report to your immediate supervisor or the Vice President for Student Life.
 - e. If the alleged offender is a volunteer: report to the university employee who coordinates their volunteer activity. If it is not appropriate to report the violation to the coordinator for any reason, the volunteer should report to the coordinator's superior.
 - f. In the alleged offender is an alumnus, vendor, or guest – report to the Office of Legal Services.

Instead of or in addition to the administrator listed above, employees may report directly to Human Resources and students may report directly to the Vice President for Student Life regardless of the category of the alleged offender.

Regardless of who receives the initial complaint, administrators should notify Human Resources (in cases involving faculty or staff) and/or the Vice President for Student Life (in cases involving students) for consultation and monitoring purposes.

The complainant will be counseled as to the options for resolving the matter including filing a formal complaint. An informal resolution might take the form of the administrator clarifying to the offending party the kind of behavior that may be deemed objectionable and securing the cessation of such behavior; it might also take the form of clarifying to the complaining party that the incident does not constitute harassment. When valid complaints are resolved informally, the offending party should be cautioned that repetition of such conduct could lead to formal complaint or investigation. The administrator may encourage moving to a formal complaint when the complaint has a sufficient degree of seriousness or is

a repetition of previous complaints so as to indicate that informal resolution has been inadequate.

Nothing in this informal complaint process is meant to discourage an individual from filing a formal complaint, nor imply the informal complaint will not be considered serious and the appropriate action taken. A person may first try to resolve the matter informally and later file a formal complaint.

2. *Formal Complaint* - Beyond an informal resolution, there are two formal reporting options: traditional and anonymous.
 - a. Traditional Reporting - When possible, formal complaints should be reported using same reporting structure outlined above (assuming there is no need for anonymous reporting). Regardless of who receives the initial complaint, administrators should immediately notify Human Resources (in cases involving faculty or staff) and/or the Vice President for Student Life (in cases involving students) before any action is taken in response to the complaint..
 - b. Anonymous Reporting - If for any reason an individual finds it difficult to use one of the traditional reporting structures, they may submit an anonymous report to EthicsPoint, an independent third-party provider, using its toll-free hotline or website. The anonymous reports are provided to the appropriate ACU administrators for investigation. More information about submitting an anonymous report using EthicsPoint can be found on [their website](#) and in ACU's [Whistleblower Policy](#).

B. Investigation

1. *Investigator and the Investigation* - After receiving a formal report or determining that an informal report warrants investigation, Human Resources and/or the Vice President for Student Life (in consultation with Legal Services) or their designees will conduct a timely and impartial investigation. ACU also reserves the right to retain an outside investigator to conduct the investigation. The accuser will be provided with a written complaint outlining the alleged violations of the policy to which he or she will be asked to respond in writing. If additional allegations arise during the course of the investigation, the accused will be provided with a revised written complaint. The remainder of the investigation will typically consist of (but will not necessarily be limited to) interviews of the individual who made the complaint (either face to face or through EthicsPoint), the person or persons against whom the complaint was made, and other individuals with relevant knowledge. During the course of the investigation, reasonable efforts will be made to keep both the complainant and alleged perpetrator informed regarding the investigation's status. Additionally, when necessary, ACU may bar an individual from his/her office, campus housing or the campus during the investigation.

2. *Criminal Activity* - If there is a reasonable suspicion that the harassment involves sexual assault, rape or any other activity of a criminal nature, the University shall notify appropriate law enforcement authorities and immediately initiate appropriate proceedings as necessary to help assure the safety and security of the campus community.
 3. *Reasonable Person Standard* - A “reasonable person standard” will be used in conducting the investigation. This means that in addition to assessing whether the complainant subjectively felt harassed, there is also an assessment of whether a reasonable person in the complainant’s situation would have felt harassed or retaliated against.
 4. *Confidentiality* – The investigation will be conducted with as much privacy, discretion and confidentiality as possible without compromising the thoroughness and fairness of the investigation. However, the University cannot guarantee complete confidentiality, for example, where it would conflict with the University’s obligation to investigate meaningfully, take corrective action, or comply with the intent of this policy or legal obligations. Moreover, the investigator may discuss the complaint with witnesses and those persons involved in or affected by the complaint, and those persons necessary to assist in the investigation or to implement appropriate disciplinary actions.
 5. *Investigator’s Report* - At the conclusion of the investigation, the investigator will provide sufficient information regarding the investigation to the appropriate administrative official(s) to allow the official to make a determination as to whether there was a violation of University policy and if so, what discipline is appropriate. The information provided by the investigator may address such issues as the allegations, the accused’s response, the investigatory process, the evidence in the case, the persuasiveness of the evidence, the consistency of the testimony, and the credibility of the witnesses.
 6. *Determination* - Before making the determination as to whether there was a violation of University policy and if so, what discipline is appropriate, the administrator may appoint a panel (which the administrator will chair) to assist him or her in making decisions regarding the entire case or just disputed facts when presented by the investigator’s report. After a determination is made, the administrator (or panel) will inform the complainant and the respondent of the final disposition of the complaint. If it is determined that a violation has occurred, the administrator (or panel) will provide the respondent with a written determination which outlines the appropriate discipline.
- C. Discipline - Anyone who violates this policy will be subject to appropriate disciplinary action. Disciplinary measures available to remedy harassment or retaliation include, but are not limited to, the following:
1. Verbal warning/reprimand;
 2. Written warning/reprimand in employee or student files;
 3. Requirement of verbal and/or written apology to victim;

4. Mandatory education and training on harassment by means of reading assignments, videos, classes or other presentations;
5. Referral for psychological assessment or treatment;
6. Alternate placement, suspension, probation or termination; or
7. Other action ACU deems appropriate under the circumstance.

D. Considerations in Determining Discipline. In determining what disciplinary or corrective action is appropriate, the university shall consider the totality of the circumstances, including but not limited to:

1. Number of victims and harassers involved;
2. Employment/student positions or status of the victims and harassers;
3. Relevant portions of prior disciplinary record of the harasser;
4. Threatened or actual harm caused by the harassment;
5. Frequency and/or severity of the harassment.

If a student or student groups are found to be in violation of this policy, any of the sanctions set forth in the ACU Student Code of Conduct may also be involved.

If a tenured faculty member is found to have violated this policy and if the discipline is determined to include termination, the University's Faculty Handbook procedures for special termination of tenured faculty will be followed.

E. Appeal – An administrator's determination may be appealed to the President of the University, whose decision will be final. The appeal must be submitted to the President's Office in writing within seven (7) calendar days after receiving the administrator's written determination and should state specifically the rationale for the appeal.