



### **2.2.2 Policy Prohibiting Discrimination and Harassment**

The University of San Diego is committed to upholding standards that promote respect and human dignity in an environment that fosters academic excellence and professionalism. It is the policy of the university to maintain an educational and work environment free from all forms of unlawful discrimination and harassment.

To that end, the university prohibits and does not tolerate unlawful discrimination against or harassment of its employees, students or applicants for employment or admission on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, gender expression, marital status, pregnancy, age, physical disability, mental disability, or other characteristic protected by federal or state law, unless a particular characteristic is a bona fide requirement of the position.

All members of the university community are expected to uphold this policy. Engaging in unlawful discrimination or harassment will result in appropriate disciplinary action, up to and including dismissal from the university.

#### **Definitions**

##### ***Discrimination***

Unlawful discrimination may occur when an individual is treated less favorably with respect to the terms and conditions of employment or education, or with respect to the individual's receipt of employment or educational benefits, because of his or her membership in a protected class. Accordingly, all employment-related decisions, including but not limited to decisions relating to recruitment, hiring, promotion, transfers, benefits and any other terms and conditions of employment, will be made without regard to the employee's or applicant's race, color, religion, national origin, sex, sexual orientation, gender identity, gender expression, marital status, pregnancy, age, physical disability, mental disability, medical condition, covered veteran status, genetic information, or other characteristic protected by federal or state law. Similarly, all education-related programs and activities, including but not limited to admissions, financial aid, academic programs, research, housing, athletics, and other extracurricular activities, will be administered without regard to the student's or applicant's race, color, religion, national origin, sex, sexual orientation, gender identity, gender expression, marital status, pregnancy, age, physical disability, mental disability, or other characteristic protected by federal or state law.

The university does not by this non-discrimination statement disclaim any right it might otherwise lawfully have to maintain its commitment to its Catholic identity or the teachings of the Catholic Church.

### ***Harassment***

Harassment includes verbal, physical or visual conduct when the conduct creates an intimidating, offensive or hostile working or educational environment, or unreasonably interferes with job or academic performance. Verbal harassment may include but is not limited to epithets, derogatory comments or slurs based upon one of the individual's characteristics noted above. Physical harassment may include but is not limited to assault, impeding or blocking movement, or any physical interference with normal work or movement, when directed at an individual because of the individual's protected characteristic. Visual forms of harassment may include but are not limited to derogatory posters, cartoons or drawings based on an individual's protected characteristic.

In addition, prohibited sex discrimination covers sexual harassment, including sexual violence. Sexual harassment includes any request or demand for sexual favors that is implicitly or expressly a condition of employment, continued employment, receipt of an employment benefit, admission to the university, participation in educational programs or activities, or evaluation of academic performance. Examples of conduct that could give rise to sexual harassment, include but are not limited to: sexual advances or suggestions; unwelcome sexually-oriented remarks; dirty jokes; the display or distribution of offensive photographs, e-mails, posters or cartoons; any unwelcome, intentional touching of the intimate areas of another person's body; or physical sexual acts perpetrated against a person's will or where a person is unable to give consent.

### **Complaint Procedure**

The university encourages any person who feels that he or she has been unlawfully discriminated against or harassed, or observes or is otherwise aware of an incident of unlawful discrimination or harassment, to report the incident promptly. To assist in the investigation, the university requests that a complaint be made in writing with a detailed description of the facts giving rise to the complaint, the names of any individuals involved, including any witnesses, and copies of any documents that support or relate to the complaint. Although the university requests the submission of a written complaint, an oral complaint is sufficient to initiate the procedures set forth under this policy.

Complaints should be made to any of the following people who are the university's designated officers for handling the complaints and implementing the university's policy against unlawful discrimination and harassment:

1. Complaints Against Administrators or Staff:  
Director of Equal Opportunity and Affirmative Action and  
Title IX Coordinator  
Maher Hall, Room 101  
5998 Alcalá Park  
San Diego, CA 92110  
(619) 260-4594

2. Complaints Against Students:

Vice President for Student Affairs  
Hahn University Center 232  
5998 Alcalá Park  
San Diego, CA 92110  
(619) 260-4588

Dean of Students  
Hahn University Center 232  
5998 Alcalá Park  
San Diego, CA 92110  
(619) 260-4588

3. Complaints Against Faculty:

Executive Vice President and Provost  
Hughes Administration Center 328  
5998 Alcalá Park  
San Diego, CA 92110  
(619) 260-4553

Dean, College of Arts and Sciences  
Founders Hall 114  
5998 Alcalá Park  
San Diego, CA 92110  
(619) 260-4545

Dean, School of Business Administration  
Olin Hall 341  
5998 Alcalá Park  
San Diego, CA 92110  
(619) 260-4886

Dean, School of Leadership and Education Sciences  
Mother Rosalie Hill Hall 205  
5998 Alcalá Park  
San Diego, CA 92110  
(619) 260-4540

Dean, School of Law  
Warren Hall 200  
5998 Alcalá Park  
San Diego, CA 92110  
(619) 260-4527

Dean, School of Nursing and Health Science  
Hahn School of Nursing  
5998 Alcalá Park  
San Diego, CA 92110  
(619) 260-4550

Dean, School of Peace Studies  
KIPJ 123  
5998 Alcalá Park  
San Diego, CA 92110  
(619) 260-7919

If for any reason the person making the complaint does not feel comfortable directly reporting the incident to the appropriate individual identified above, the complaint may be reported through alternative channels. In the case of a complaint by a university employee, the complaint may be made to the employee's supervisor, manager, the Human Resources department, a dean, a vice president, or the president. If the complaint involves the employee's supervisor, the employee is not required to report the complaint to the supervisor. In the case of a complaint by a student, the complaint may be made to a dean, the vice president and provost, or the president.

A supervisor or manager who receives a complaint of unlawful discrimination or harassment, or observes or is otherwise aware of an incident of unlawful discrimination or harassment, shall promptly inform the appropriate university's designated officer, as set forth above.

In cases involving potential criminal conduct, the university will determine whether appropriate law enforcement or other authorities should be notified.

#### **Investigation and Corrective Action**

The university will investigate every reported complaint of unlawful discrimination or harassment. The investigation will be conducted in a thorough, prompt and professional manner.

If the conclusion of the investigation is that unlawful discrimination or harassment occurred, the university will initiate corrective action, as appropriate under the circumstances. For employees, the corrective action may range from verbal warnings up to and including termination from employment. For students, the corrective action will be imposed in a manner consistent with the university's Student Code or other applicable procedures. If the individual found to have engaged in the unlawful discrimination or harassment is not an employee or student of the university, corrective action within the reasonable control of the university, and as appropriate under the circumstances, will be initiated.

If termination of a faculty member is contemplated, the applicable rules governing dismissal for serious cause will be followed.

The employee or student who raised the complaint will be advised of the results of the investigation, unless doing so is prohibited by FERPA or other applicable law. Similarly,

an employee or student who is accused of the unlawful discrimination or harassment will be advised of the results of the investigation.

### **Retaliation Prohibited**

The university prohibits and does not tolerate retaliation against any individual who in good faith files a complaint of unlawful discrimination or harassment or is involved as a witness or participant in the complaint or investigation process. Engaging in unlawful retaliation can result in disciplinary action, up to and including dismissal from the university.

The university encourages any individual who believes he or she has been subject to unlawful retaliation, or observes or is otherwise aware of an incident of unlawful retaliation in violation of this policy, to report the incident promptly pursuant to the complaint procedure identified above. The investigation and corrective action procedures set forth above will similarly apply in the case of a complaint of unlawful retaliation in violation of this policy.

### **Right to Appeal**

An employee or student who is found to have engaged in unlawful discrimination, harassment or retaliation in violation of this policy shall have the right to appeal the decision. Similarly, a complainant may appeal the decision.

If a vice president was the university's designated officer responsible for handling the complaint, the appeal must be made to the president or the president's designee. If someone other than a vice president was the university's designated officer responsible for handling the complaint, the appeal must be made to the vice president to whom that designated officer reports. The appeal may address the decision of whether unlawful discrimination, harassment or retaliation occurred, and it also may address the corrective action imposed.

The appeal must be submitted in writing within ten (10) working days after written notification of the results of the investigation. The appeal should describe with specificity why the findings or corrective action imposed were not reasonably based upon the evidence and information made available to the investigator and/or the university official who made the decision regarding the corrective action.

The president or vice president who is deciding the appeal may receive or consider additional information if he or she believes such information would aid in the review of the appeal. This right to appeal shall not entitle the appellant to a new or second investigation. The appeal should be granted only if the president or the vice president who is deciding the appeal concludes that the findings were not reasonably based upon the evidence and information available to the investigator, or that the corrective action imposed was not reasonably based upon the evidence and information available to the university official who made the decision regarding the corrective action.

The president or the vice president who is deciding the appeal will provide the decision to the individual who submitted the appeal within 45 days of receipt of the written appeal. The decision of the president or the vice president who is deciding the appeal is final.

During the time of the appeal and review, any corrective action taken as a result of the original complaint may be implemented and enforced.

If the decision was made pursuant to the procedures identified in the Student Code of Rights and Responsibilities, the appeal procedures identified in the Student Code shall apply.

(Last Updated October 26, 2011)