



### **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, shared ancestry, 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.

#### ***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 their 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.

#### ***Title IX and Related Regulatory Authority***

Title IX of the Educational Amendments of 1972 prohibits discrimination on the basis of sex in education programs and activities operated by recipients of federal financial aid assistance. Sex includes sex, sex stereotypes, sex characteristics, gender identity, sexual orientation, and pregnancy or related conditions. Sex discrimination also includes sexual harassment, sexual assault, sexual exploitation, dating and domestic violence, stalking, quid pro quo harassment, hostile environment harassment, disparate treatment, and disparate impact. All forms of sex discrimination that are prohibited by Title IX are also prohibited by this policy.

The Violence Against Women Reauthorization Act of 2013, (also known as VAWA), including the Campus Sexual Violence Elimination Act (also known as Campus SAVE Act), requires colleges and universities to have procedures in place to respond to incidents of sexual assault, domestic violence, dating violence, and stalking.

In order to address its responsibilities under these laws, the university has implemented standards, reporting procedures, and response protocols that apply to incidents of sexual assault, domestic violence, dating violence, stalking, and sexual exploitation. For more information, please see the university's Title IX Policy Prohibiting Sex Discrimination, Sexual Misconduct and Relationship Violence and Grievance Procedures.

#### **Complaint Procedure**

This policy covers non-discrimination in both employment and access to educational opportunities. Therefore, any member of the USD community whose acts deny, deprive, unreasonably interfere with or limit the education or employment, residential and/or social

access, benefits, and/or opportunities of any member of the USD community, guest, or visitor on the basis of that person's actual or perceived protected characteristic(s), is in violation of USD Policy 2.2.2.

In accordance with Title IX, USD will promptly and effectively address any Sex Discrimination whereby both parties are students using the processes set forth in the university's Title IX Policy Prohibiting Sex Discrimination, Sexual Misconduct and Relationship Violence and Grievance Procedures. The Title IX Policy Prohibiting Sex Discrimination, Sexual Misconduct and Relationship Violence and Grievance Procedures will also apply to all complaints of Sex Discrimination or Sexual Harassment whereby a student is a party. All other discrimination complaints will be addressed using the procedures outlined in this Policy 2.2.2 and other applicable policies and procedures.

The university encourages any person who feels that they have 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 may request 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 may request the submission of a written complaint, an oral complaint is sufficient to initiate the procedures set forth under this policy.

Complaints of discrimination or harassment should be made to:

[Nicki Schuessler Veloz](#), Ph.D.

Title IX Coordinator/Director of Title IX, EEO and Employee Relations

Maher Hall, Room 101

5998 Alcalá Park

San Diego, CA 92110 (619) 260-4594

Concerns about the USD's application of this Policy and compliance with certain federal civil rights laws may also be addressed to:

Office for Civil Rights (OCR)

U.S. Department of Education

400 Maryland Avenue, SW

Washington, D.C. 20202-1100

Customer Service Hotline #: (800) 421-3481

Facsimile: (202) 453-6012

General Inquiry Line: (800-872-5327)

Email: [ocr@ed.gov](mailto:ocr@ed.gov)

Website: <https://www.ed.gov/about/ed-offices/ocr>

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 the Department of Public Safety, 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 university's Title IX Coordinator.

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 they have 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.

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 they believe 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.

### **Other Resources**

In addition to the internal resources described above, individuals may pursue complaints with the government agencies that enforce the laws prohibiting discrimination, harassment and retaliation, including the California Civil Rights Department (<https://calcivilrights.ca.gov/>), the Equal Employment Opportunity Commission (<https://www.eeoc.gov/>), or the United States Department of Education's Office for Civil Rights (<https://www.ed.gov/about/ed-offices/ocr>).

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