

# UNIVERSITY OF LA VERNE

## POLICY ON SEXUAL AND OTHER UNLAWFUL HARASSMENT

### I. INTRODUCTION

The University of La Verne (“ULV” or “University”) is committed to maintaining a learning, working and living environment that is free from sexual and other unlawful harassment.

### II. PURPOSE OF POLICY

The purpose of this policy is to (1) familiarize all faculty, staff and students with the definition of sexual and other unlawful harassment and the forms it can take; (2) make clear that sexual and other unlawful harassment is prohibited and will be punished; (3) inform victims of the course of action they should take to report sexual and other unlawful harassment; and (4) clarify the rights of those accused of harassment.

### III. SCOPE OF POLICY

This policy applies to all ULV students, administrators, faculty, staff, program participants and visitors. Persons who are not ULV employees, but perform work at ULV for its benefit (such as contractors and temporary employees) are also protected and required to abide by this policy.

### IV. DEFINITION OF HARASSMENT

- A. Harassment is defined as any conduct, on or off campus, directed toward an individual based on sex, sexual orientation, race, religion, color, national origin, pregnancy, physical or mental disability, age, or any other basis protected by federal, state or local law that is sufficiently severe or pervasive to alter or interfere with an individual’s work or academic performance, or that creates an intimidating, hostile or offensive, educational, work or living environment.
- B. Whether particular physical, non-verbal, or verbal conduct constitutes harassment in violation of this policy will depend upon all of the circumstances involved, the context in which the conduct occurred, and the frequency, severity, and pattern of the conduct. Conduct does not constitute harassment in violation of this policy unless it occurs based on a legally protected characteristic or trait and is sufficiently severe or pervasive to alter or interfere with an individual’s work or academic performance, or that creates an intimidating, hostile or offensive educational, work or living environment. The fact that someone did not intend to harass an individual is no defense to a complaint of harassment. Regardless of

intent, it is the effect and characteristics of the behavior that determine whether the conduct constitutes harassment. Conduct alleged to constitute harassment will be evaluated according to the objective standard of a reasonable person. Thus, conduct that is objectionable to some, but that is not severe or pervasive enough to create an objectively intimidating, hostile or offensive environment, is beyond the purview of this policy.

C. Because sexual harassment has been more thoroughly defined in the law than harassment based upon other protected categories, the following definition of sexual harassment is included in this policy.

1. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors, or other unwelcome written, verbal or physical conduct of a sexual nature when:
  - (a) Submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status or progress; and/or
  - (b) Submission to or rejection of the conduct by the individual is used as the basis of employment or academic decisions affecting the individual; and/or
  - (c) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available or through the University; and/or
  - (d) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance or of creating an intimidating, hostile, or offensive work, educational or living environment.
2. Sexual harassment may occur between members of the same or opposite sex. Further, harassment based on a person's sex is not limited to instances involving sexual behavior. That is, harassment on the basis of sex may occur without sexual advances or sexual overtones when conduct is directed at individuals because of their sex. This is often referred to as sex or gender harassment and violates this policy.

## V. FORMS OF HARASSMENT

Unlawful harassment can take many forms and will vary with the particular circumstances. Examples of harassment prohibited by this policy may include, but are not limited to: (1) verbal conduct such as epithets, derogatory jokes or comments, or slurs; (2) unwanted advances and/or propositions of a sexual nature including

relationships which began as consensual but later ceased to be mutual wherein one party then harasses the other; (3) visual displays such as derogatory and/or sexually-oriented posters, photography, cartoons, or drawings not protected by policies on academic freedom and freedom of expression; (4) suggesting or implying that submission to or rejection of sexual advances will affect decisions regarding such matters as an individual's work assignment or status, salary, academic standing, grades, receipt of financial aid or letter of recommendation; (5) physical conduct including unnecessary and unwanted touching, intentionally blocking normal movement, or assault including sexual assault and rape. (Sexual assault and rape are crimes of violence and are punishable as criminal offenses. For a definition of sexual assault and rape, see ULV's Sexual Assault Policy, at [http:// www.ulv.edu/safety/assult.phtml](http://www.ulv.edu/safety/assult.phtml).)

## VI. PROCEDURES

### A. Informal Resolution Procedures

1. Individuals who believe they have been or may be the victim of sexual or other unlawful harassment (hereinafter "complainant") may choose to avail themselves of informal resolution procedures. Use of these informal procedures is not a prerequisite to the filing of a complaint under the formal procedures described below.
2. Requests for assistance under these informal procedures may be oral or written and should usually be made as soon as possible after the most recent alleged act of sexual or other unlawful harassment. Such requests should be directed to the following University officers; the School Dean and/or the Provost for faculty; the Department Head or the Chief Human Resources Officer for staff; and the School Dean, the Dean of Student Affairs (or Assistant Dean of Students at the Law School), or the Director of Housing and Residential Life. Separate and apart from these informal procedures, the University Counseling Center is a source of assistance for students and the Employee Assistance Program for faculty and staff.
3. Requests for assistance under these informal procedures will be dealt with, to the greatest extent practical and possible, on a confidential basis and disclosure of their existence will be limited to those who, in the interests of fairness and problem resolution, have an immediate need to know or as legally required. Because ULV has an obligation to address sexual and other forms of unlawful harassment, it cannot guarantee that the identity of a complainant will be treated as completely confidential where it would conflict with its obligations to provide a safe or nondiscriminatory work and educational environment.
4. Upon receipt of a request for assistance under these informal procedures, the individual requesting assistance will be counseled on options for resolving the problem and about sources of further assistance, such as

counseling services available to students at the University Counseling Center and for faculty and staff through the Employee Assistance Program.

5. Requests for assistance may have several outcomes. The person who makes such a request may only want to discuss the matter in order to clarify whether sexual or other unlawful harassment may be occurring and to determine her or his options, including the pursuit of more formal action. In such situations, the person to whom the request is brought may be asked to take action to see whether an informal resolution can be reached. If resolution is reached by this process, no further actions will be taken and the matter considered closed. If the matter cannot be resolved informally, the person to whom the request was brought will assist the complainant in filing a formal complaint.

B. Formal Resolution Procedures

1. Individuals who believe they have been the victim of sexual or other unlawful harassment may file a formal complaint. Such a complaint will result in an investigation, the purpose of which shall be to determine whether a violation of this policy has occurred. An investigation may also be initiated upon the request of the President, Executive Vice President, Provost, School Dean, Dean of Student Affairs, Director of Housing and Residential Life, or Chief Human Resources Officer without a formal complaint from any individual.
2. Formal complaints under this procedure should be directed to the following University officers: President, Executive Vice President, Provost, School Dean, Dean of Student Affairs (or Assistant Dean of Students at the Law School), Director of Housing and Residential Life, or Chief Human Resources Officer. Such complaints must be made within one year of the most recent alleged act of sexual or other unlawful harassment. The complaint must be in writing and should include details concerning the conduct that gives rise to the complaint, the name of the person(s) against whom the complaint is made, and the names of witnesses, if any. Although the failure to initiate a complaint in accordance with the terms of this policy, including the time limitations set forth therein, shall constitute a waiver of the complainant's right to utilize the complaint procedures described herein, the University nevertheless reserves the right to pursue an investigation as it deems appropriate whenever and however it receives allegations of or information related to sexual or other unlawful harassment.
3. Upon receipt of any complaint under these procedures, the person receiving the complaint shall immediately notify the Executive Vice President who in turn shall (i) notify appropriate University officers, supervisors or others who have a need to know of the existence of the

complaint, and (ii) take such steps as may be necessary to refer the complaint to the appropriate investigating officer. If the Executive Vice President is the subject of the complaint, notification shall be made to the President who shall designate another University officer to act in place of the Executive Vice President with respect to the administration of this policy.

4. Investigation of complaints under these procedures shall be conducted by the persons designated below. However, in the event of a conflict of interest or time, other investigative officers may be designated by the Executive Vice President.
  - (a) For complaints against faculty members, the investigating officer shall be the Provost or his/her designee.
  - (b) For complaints against staff, the investigating officer shall be the Chief Human Resources Officer or his/her designee.
  - (c) For complaints by students against the conduct of other students, the investigating officer shall be the Dean of Student Affairs (or Assistant Dean of Students at the Law School), or his/her designee.
  - (d) For complaints against anyone other than those persons referred to above, the investigating officer shall be the Chief Human Resources Officer or his/her designee.
5. Before any investigation of the complaint is undertaken, the person(s) against whom the complaint has been made shall be informed of the complaint, the identity of the complainant, and provided with a summary of the complaint. During the investigation, the person(s) against whom the complaint is made shall be accorded a full opportunity to respond to the complaint, either orally or in writing. Every effort shall be made to complete the investigation within thirty (30) working days of the date the formal complaint is made or as soon thereafter as practical under the circumstances.
6. The results of the investigation shall be set forth in a written report consisting of findings, conclusions and, if applicable, remedies to be provided and/or sanctions to be imposed. The complainant, the person(s) against whom the complaint is made, and the Executive Vice President shall be promptly notified of the outcome of the investigation and of the actions, if any, taken in connection with the complaint.
7. A complainant not satisfied with the outcome of the investigation, may appeal in writing to the Executive Vice President within ten (10) calendar days of the date on which he or she is notified of the outcome. The Executive Vice President or the Executive Vice President's designee shall consider the appeal and take such action as s/he deems appropriate. The

decision of the Executive Vice President or the Executive Vice President's designee shall be final. (The rights of persons who have been found to have violated this policy are described in Section VII.B.)

C. Respect for the Rights of the Complainant and Accused

ULV recognizes the sensitive nature of harassment and harassment complaints both for the complainant and the person(s) against whom the complaint is made. All parties to the complaint should treat the matter under investigation with discretion and respect for the reputation of all parties involved.

D. Location of Records

In the event that the investigation does not result in a finding of violation of this policy, no record of the complaint or investigation will become a part of any individual's personnel or student file. Should a violation of this policy be found, a record of the complaint and disciplinary action taken shall be made part of the permanent file of the person(s) found to have violated the policy. A copy of the complaint, investigative file (including any written materials, interview notes, and/or other items that make up the file) and the written report shall be maintained in the office of the investigating officer for the period of time mandated by ULV's record retention policy and applicable law. The Office of the Executive Vice President will maintain a record of all complaints and actions taken in response thereto. The records maintained by the Office of the Executive Vice President shall be available only, to the extent necessary, to administrators and other supervisors charged with responding to allegations of harassment and enforcing this policy.

## VII. REMEDIES AND SANCTIONS

A. Remedies

Remedies may include but are not limited to offering to remove the complainant from the hostile environment (or vice versa); changes in classes; changes in residence arrangements; changes in schedules or work hours.

B. Sanctions

Persons who violate this policy will be disciplined. The particular form of discipline will depend on the nature of the offense. Such discipline shall be imposed pursuant to and in accordance with any and all applicable ULV rules, policies and procedures. Sanctions may include but are not limited to verbal warnings; written warnings; loss of privileges, probation; suspension; dismissal/expulsion from the University or termination of employment. A person against whom such discipline is imposed shall have any and all rights to contest or

appeal the imposition of discipline as may otherwise exist under applicable ULV rules, policies or procedures.

#### VIII. RETALIATION PROHIBITED

Retaliation against any individual for seeking assistance or bringing a harassment complaint through the processes described in this policy is strictly prohibited. Similarly, any person who participates or cooperates in any manner in an investigation or any other aspect of the process described herein shall not be retaliated against. Retaliation is itself a violation of this policy and is a serious separate offense.

#### IX. FALSE ACCUSATIONS

Accusations of sexual and other unlawful harassment typically have injurious far-reaching effects on the careers and lives of accused individuals. Allegations of harassment must be made in good faith and not out of malice. Knowingly making a false allegation of harassment, whether under the informal or formal procedures of this policy is itself a violation of this policy and a basis for disciplinary action up to and including dismissal/expulsion from the University or termination of employment. Failure to prove a claim of harassment is not the equivalent of a knowingly false accusation.

#### X. ACADEMIC FREEDOM

ULV adheres to principles of academic freedom. (See section of PEPPIT at <http://www.ulv.edu/qm/ptfh/PEPPITc.pdf>.) Nothing in this policy shall be construed to limit the legitimate exercise of academic freedom, including but not limited to written, graphic or verbal expression that can reasonably be demonstrated to serve a legitimate educational purpose.

#### XI. RESPONSIBILITY

All faculty, staff, students and other members of ULV community are responsible for assuring that their conduct does not violate this policy. If administrators, managers, supervisors, or faculty members, know sexual or other unlawful harassment is occurring, receive a complaint of sexual or other unlawful harassment, or obtain other information indicating possible sexual or other unlawful harassment, they must take immediate steps to ensure that the matter is addressed. Failure to do so may result in legal liability. Administrators, managers and supervisors have the further responsibility of preventing and eliminating sexual or other unlawful harassment within the areas they supervise.

## XII. ADDITIONAL RECOURSE

Sexual and other unlawful harassment is a violation of federal and state law. This policy is intended to supplement and not replace such laws. Whether or not the internal complaint procedures described in this policy are utilized, a ULV employee who believes that s/he is the victim of sexual or other unlawful harassment may file a complaint with the California Department of Fair Employment and Housing, 611 W. 6th Street, Suite 1500, Los Angeles, California 90017, (213) 439-6799, or the United States Equal Employment Opportunity Commission, 255 East Temple Street, 4th Floor, Los Angeles, California 90012, (213) 894-1000. In addition, students and/or employees may file a complaint with the Office of Civil Rights, United States Department of Education, 50 United Nations Plaza, Rm. 239, San Francisco, CA 94102, (415) 556-4275. Persons who believe they are victims of sexual or other unlawful harassment should be aware that both state and federal law impose time deadlines for the filing of complaints and that the use of the internal complaint procedures described in this policy will not change such filing deadlines. In connection with harassment claims involving student related rape and or sexual assault, other forms of recourse are available which are described in detail in ULV's Procedures for Handling Charges of Rape and Sexual Assault set forth at <http://ulv.edu/sa/dp/12.phtml>.

## XIII. DISSEMINATION OF THIS POLICY

The Provost, Chief Human Resources Officer, and Dean of Students are charged with the responsibility for distributing copies of this policy to the faculty, staff, and students, respectively. A copy of this policy shall be included in all employee and student orientation materials. In addition, copies of this policy shall be made continuously available at appropriate campus locations. The names of persons who are designated to receive complaints under this policy shall also be posted in one or more prominent and accessible locations. Such persons shall also receive training concerning this policy and procedures for handling complaints under this policy. The University's officers shall also take such other steps as are appropriate to develop educational and training programs designed to promote a work, educational and living environment that is free of sexual or other unlawful harassment.

## XIV. SOURCES OF POLICY

California Education Code Section 200 et seq.; The California Sex Equity in Education Act, California Education Code Section 66250 et seq.; The California Fair Employment and Housing Act; California Government Code Section 12900 et seq.; The Age Discrimination in Employment Act of 1967, 29 United States Code, Section 621; Title VI of the Civil Rights Act of 1964, Title 42, United States Code, 2000d; Title VII of the Civil Rights Act of 1964, Title 42, United States Code, Section 2000e, et seq.; Section 504 of the Rehabilitation Act of

1973, 29 United States Code, Section 794; The Americans with Disabilities Act of 1990, Title 42, United States Code, Section 12101 et seq.; and Title IX of the Education Amendments of 1972, Title 20, United States Code, Section 1681 et seq.

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