



Policy of Zero Tolerance for Unlawful Harassment, Discrimination and/or Retaliation / Compliance with Title IX

Federal and state law, including Title IX of the Educational Amendments Act of 1972, prohibit unlawful harassment and discrimination against students, applicants, interns, employees and/or any person providing services to the University, on the basis of protected characteristics, including but not limited to: sex, (including pregnancy and/or related medical conditions, childbirth and/or related medical conditions and/or breastfeeding and/or related medical conditions), sexual orientation or preference, gender, gender identity, gender expression, transgender (including whether or not the individual has transitioned or is transitioning), race, color, religion, religious creed (including religious dress and grooming standards), national origin (including and possession of a driver's license granted under Section 12801.9 of the CA Vehicle Code), citizenship status, ancestry, age (40 years and older), marital status, registered domestic partner status, genetic information, certain medical conditions (including, but not limited to cancer and genetic characteristics), mental disability, physical disability, military and/or veteran status, domestic violence victim status, political affiliation, and/or any other category protected by federal, state or local law, ordinance or regulation. Unlawful harassment and discrimination is also prohibited based on the perception that a student, applicants intern, employee, and/or any person providing services to the University, has any of the above-mentioned protected characteristics, or is associated with a person who has or is perceived as having any of those characteristics. Mount Saint Mary's University is concerned about the safety and well-being of its students, applicants interns, employees, and/or any person providing services to the University, and is committed to providing an environment that is free from unlawful harassment, discrimination and retaliation on the basis of these protected characteristics, and any other characteristic protected by federal, state or local law, ordinance or regulation. To this end, the University strictly prohibits all forms of unlawful harassment (including sexual harassment), unlawful discrimination and/or retaliation in any form, as well as dating violence, domestic violence and stalking. Anyone who violates this policy of zero tolerance is subject to appropriate disciplinary action, up to and including immediate termination or dismissal.

- *Unlawful Discrimination Defined*

Unlawful discrimination occurs when an individual's protected characteristic is used as a basis for adverse decisions affecting that individual. Discrimination encompasses a wide range of conduct. Examples of specifically prohibited conduct include, but are not limited to:

- ◆ Terminating an individual's employment based on a protected characteristic;
- ◆ Refusing a request for time off based on a protected characteristic;
- ◆ Denying housing or other benefits based on a protected characteristic; and
- ◆ Assigning an undeserved low grade based on a protected characteristic.

Pay discrimination between employees of the opposite sex or between employees of another race or ethnicity performing substantially similar work, as defined by the California Fair Pay Act and federal law, is prohibited. Pay differentials may be valid in certain situations defined by law. Employees will not be retaliated against for inquiring about or discussing wages. However, the University is not obligated to disclose the wages of other employees.

- Unlawful Harassment Defined

Unlawful harassment includes all forms of unwelcome verbal, physical and visual conduct and displays that are based on any of the above-mentioned protected characteristics and which are sufficiently severe or pervasive from the objective standpoint of a reasonable person to so alter working conditions as to make it more difficult to do the job. Harassment can take many forms. Following are some examples that may constitute harassment:

- Verbal harassment such as jokes, epithets, slurs, negative stereotyping, unwelcome remarks about an individual's body, dress, clothing, race, physical appearance or abilities, pitch of voice, derogatory comments, discussions of a sexual nature and/or harassing remarks;
- Physical harassment such as physical interference with normal activity, impeding or blocking movement, assault, unwelcome physical contact or touching, staring at a person's body, and/or threatening, intimidating or hostile acts that relate to a protected characteristic; and
- Visual harassment such as offensive or obscene e-mails, instant messaging, web blogs, photographs, calendars, posters, cards, cartoons, drawings and gestures, displays with sexually suggestive or lewd objects, unwelcome letters or notes or any other graphic material that denigrates or shows hostility or aversion toward an individual because of the individual's protected characteristics.

The conduct can occur in any school program or activity and can take place in classrooms, school facilities, dorms, or at off-campus locations.

- Unlawful Sexual Harassment and Discrimination Defined

Sexual harassment occurs when unwelcome sexual conduct is sufficiently severe or pervasive from the objective standpoint of a reasonable person to so alter working conditions as to make it more difficult to do the job. Sexual harassment is harassment based on sex or conduct of a sexual nature, and includes harassment based on sex (including pregnancy, childbirth, breastfeeding, or related medical conditions),

gender, gender identity, gender expression and/or transgender. Sexual harassment and discrimination may involve harassment of women by men, men by women and gender-based harassment of individuals of the same gender as the harasser. Sexual harassment also includes sexual violence, which, in addition to violating this zero tolerance policy, is a crime.

Sexual discrimination occurs when submission to or rejection of unwelcome sexual conduct by an individual is used as a basis for any decisions affecting that individual. Examples include threats and demands to submit to sexual requests or offers of benefits in return for sexual favors.

Sexual harassment and/or sexual discrimination, including sexual violence, encompasses a wide range of conduct. Examples of specifically prohibited conduct include, but are not limited to:

- ◆ Promising, directly or indirectly, an employee and/or a student a reward, if the employee and/or student complies with a sexually oriented request;
- ◆ Threatening, directly or indirectly, retaliation against an employee and/or student if the employee and/or student refuses to comply with a sexually oriented request;
- ◆ Denying, directly or indirectly, an employee and/or student an education-related opportunity, if the employee and/or student refuses to comply with a sexually oriented request;
- ◆ Engaging in sexually suggestive conversation or physical conduct or touching an employee and/or student;
- ◆ Displaying pornographic or sexually oriented materials;
- ◆ Telling sexual or “dirty” jokes;
- ◆ Engaging in indecent exposure;
- ◆ Making unwanted sexual or romantic advances toward an employee and/or student;
- ◆ Spreading sexual rumors or rating other employees and/or students as to sexual activity or performance; or
- ◆ Physical conduct such as assault, touching, or blocking normal movement.

Conduct in violation of this Zero Tolerance policy is prohibited in all places and at all times, including, but not limited to, during any school program(s) and/or activit(ies) and in classrooms, school facilities, dorms and/or off-campus locations.

- *Dating Violence/Domestic Violence and Stalking*

Dating/domestic violence is a pattern of abusive behaviors used to exert power and control over another person. Dating/domestic violence can be physical, sexual, emotional, economic or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure or wound someone. Stalking is a pattern of behavior that makes the victim feel afraid, nervous, harassed and/or in danger. It is when someone repeatedly contacts you, follows you, sends you things, talks to you when you don't want them to or threatens you. In addition to violating this zero tolerance policy, dating violence, domestic violence and stalking are crimes.

- Zero Tolerance Policy

The University strictly prohibits all forms of unlawful harassment (including sexual harassment and sexual violence), discrimination and/or retaliation in any form. Anyone who violates this policy of zero tolerance is subject to appropriate disciplinary action, up to and including immediate termination or dismissal.

- Complaint Procedure

It is the responsibility of each individual to assure that prohibited harassment, discrimination or retaliation does not occur within the University. *Anyone who believes they are being harassed, discriminated or retaliated against shall immediately (or as soon as reasonably possible after the incident that is the subject of the complaint) make a complaint to one of the following Intake Officers: Human Resources Director; Assistant Human Resources Director; Provost and Academic Vice President; Associate Provost; Vice President of Student Affairs; Associate/Assistant Vice President of Student Affairs; Dean of Student Life (Chalon & Doheny); Dean of the Baccalaureate Program; Dean of the Associate in Arts Program; Dean of the Graduate Division; Dean of the Weekend/Evening College; Director of Campus Security; or the University's Title IX Coordinator. Students who make complaints will generally be directed to the University's Title IX Coordinator. The complaining individual will be asked to identify the facts of the incident(s), the name(s) of the party(s) involved, and all relevant dates, witnesses, and documents. The complaining individual is also strongly encouraged to put the complaint in writing.*

It is also the responsibility of all supervisory employees to immediately report allegations, observations and/or knowledge of any circumstances which could constitute unlawful harassment, discrimination and/or retaliation to an Intake Officer.

The complaining individual may be asked whether they want the University to attempt to facilitate an informal resolution, either directly or through a facilitator, or whether they want to initiate a formal complaint and investigation under the policy. The University will assess the severity of the alleged harassment, discrimination or retaliation, and the potential risk of a hostile environment for others in the community to determine whether informal resolution may be appropriate.

Affected employees and/or students may also direct complaints to the U.S. Department of Education Office for Civil Rights (1-415-486-5555). Affected employees also may direct complaints to federal Equal Employment Opportunity Commission ("EEOC") (1-800-669-4000) and/or the California Department of Fair Employment and Housing ("DFEH") (1-800-884-1684).

- Investigations

All complaints of harassment, discrimination or retaliation made to the University against any student, employee, or third party affiliated with the University will be promptly, thoroughly and objectively investigated. Investigations will be conducted in as discreet manner as possible. Investigations will include interviews of the complaining individual, the accused party, and others as appropriate. Such interviews will be aimed at providing both parties an opportunity to present evidence and explain his or her version of the events. Information obtained from the investigation will be disclosed only on a need-to-know basis. At the conclusion of the investigation, the University will determine whether, based upon a preponderance of the evidence, prohibited harassment, discrimination and/or retaliation has occurred in violation of University policy and will communicate its findings in writing to the accused and the complainant. When appropriate and lawful, the University will communicate its findings to other persons who are directly concerned.

Any member of the University community who is determined to have violated this zero tolerance policy will be subject to appropriate discipline, up to and including immediate termination or dismissal. Steps will be taken as necessary to prevent any further harassment, discrimination or retaliation.

- No Retaliation

The University takes all complaints of harassment, discrimination and retaliation seriously and wants the opportunity to internally resolve any problems that may arise. No individual will be retaliated against or otherwise disciplined for reporting in good faith an incident of harassment, discrimination or retaliation or for participating in an investigation. The reporting individual and all parties participating in an investigation have the assurance of the University that no reprisals will be taken as a result of the complaint, unless the complaint was filed in bad faith or for an improper purpose. If any individual feels he/she has been retaliated against, he/she should immediately report the retaliatory conduct.

- Use of Drugs or Alcohol

The use of alcohol or drugs will never excuse behavior that violates this zero tolerance policy.