

SOUTHWESTERN

LAW SCHOOL Los Angeles, CA

Policy to Prevent Discrimination, Harassment, and Retaliation

Board of Trustees policy approved September 29, 2021. Effective November 15, 2021.

Revision history: Reviewed and reformatted July 11, 2022; technical revisions made in May 2023; revised in May 2025.

Related policies: Sexual Misconduct Policy; Student Honor Code; Free Expression Policy; Academic Freedom Policy; Code of Student Professionalism and Conduct

Scheduled Review Date: June 2025 (Office of the President and Dean and Associate Dean for Student Services).

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A. Policy to Prevent Discrimination, Harassment, and Retaliation

1. Policy statement

Southwestern Law School prohibits discrimination and harassment based on an individual's race (including hairstyle and hair texture), ethnicity, color, religion, creed, ancestry, national origin, sex, gender, gender identity or expression, reproductive health decision-making, pregnancy (including pregnancy, childbirth, breastfeeding, and medical conditions related to pregnancy, childbirth, or breastfeeding), sex stereotyping (including assumptions about a person's appearance or behavior, gender roles, gender expression, or gender identity), sexual orientation, parental status, marital status, age, disability (mental or physical), medical condition, citizenship status, military status or service, veteran status, genetic information, or any other classification protected by federal or California law, or any combination of any status protected by law in matters of admissions, employment, housing, or services, or in the educational programs (including retention of students) or activities the Law School operates. Such conduct violates the Law School's values and disrupts the living, learning, and working environment for students, faculty, staff, and other community members. The Law School will interpret and enforce this policy consistent with the requirements of the First Amendment and applicable federal law, including Titles VI, VII, and IX.

2. Scope of prohibited conduct

This policy prohibits discrimination, harassment, and retaliation based on protected characteristics as defined under applicable federal, California, and local laws. While the Law School encourages respectful and professional conduct, this policy is not intended to govern all interpersonal conflict or uncivil behavior. Conduct that is merely rude, uncourteous, or offensive—without more—does not necessarily constitute a policy violation.

To fall within the scope of this policy, conduct must be sufficiently severe, persistent, or pervasive that it interferes with an individual's access to education or work or otherwise create a hostile or discriminatory environment based on a protected characteristic. Applicable laws do not prohibit general incivility or disagreements that are not tied to protected characteristics. Accordingly, this policy is not a general civility code.

Reports about concerning conduct that do not fall within the scope of this policy may be addressed through other institutional policies or procedures, as appropriate.

3. **Freedom of expression**

Nothing in this policy should be interpreted to restrict constitutionally protected speech, including speech that may be controversial or offensive, so long as it does not meet the legal threshold for harassment, threats, or other unprotected categories of expression (e.g., defamation, etc.) (see the Law School's Free Expression Policy for more information).

4. **Support and resources**

Individuals impacted by discrimination or harassment may contact the Diversity, Equity, and Inclusion Office (DEI Office) through June 30, 2025, and the Student Services Office beginning July 1, 2025, for support, resources, and information, even if they choose not to pursue the resolution process described in this policy. Given the office transition, any references to the Student Services Office in this policy should be interpreted as the DEI Office through June 30, 2025, and the Student Services Office beginning July 1, 2025.

5. **Sexual misconduct**

Conduct prohibited by this policy includes sexual misconduct (including sexual assault, non-consensual sexual contact, intimate partner violence, sexual exploitation, and stalking) that is not otherwise covered by the Sexual Misconduct Policy. Individuals impacted by sexual misconduct may contact the Law School's Title IX Coordinator to receive support, resources, and information even if they do not wish to move forward with a resolution process. Please see the Sexual Misconduct Policy or contact the Title IX Coordinator for additional information.

Reports can be made to the following individuals:

Title IX Coordinator, Jessica E. Johnson **(through June 30, 2025)**

Location: 3050 Wilshire Boulevard, Suite BW361, Los Angeles, California 90010

Phone: (213) 738-6733

Email: titleix@swlaw.edu

Deputy Title IX Coordinator and Civil Rights Investigator, Sabrina Calica **(through June 2025; as of July 1, Sabrina Calica will become the Title IX Coordinator and Civil Rights Investigator)**

Location: 675 S. Westmoreland Blvd., Suite 618, Los Angeles, California 90010

Location: 675 S. Westmoreland Blvd., Suite 102, Los Angeles, California 90010

(starting July 2025)

Phone: (213) 738-6788

Email: titleix@swlaw.edu

6. **Jurisdiction**

All students, employees (whether full-time or part-time), and Board of Trustees members must refrain from conduct prohibited by this policy. These definitions of prohibited conduct also apply to admitted students who have not yet

matriculated, business associates or guests, independent contractors or consultants, vendors, volunteers, individuals providing services pursuant to a contract, and any other persons with whom students or employees come into contact while conducting Law School business or participating in Law School programs and activities.

Depending on the status of the parties, the Student Services Office oversees the Law School's response to reports of violations of this policy. The Civil Rights Investigator is the designated official in the Student Services Office responsible for investigating complaints under this policy. All references to the Student Services Office or Civil Rights Investigator in this policy include their designee (e.g., administrators of a different Law School office, another investigator, or an outside investigator, etc.). The Law School may investigate any reported violations of this policy that occur in the context of a Law School program or activity or that otherwise affect the Law School's working or learning environments, regardless of whether the reported conduct occurred on or off campus or in a virtual space. For every report submitted, the Law School will review the circumstances of the reported conduct to determine whether this policy or the Sexual Misconduct Policy applies and was violated.

If the Law School has jurisdiction over the parties involved, it will take steps within its control to eliminate, prevent, and address the conduct that violates this policy or the Sexual Misconduct Policy. If the respondent is not a member of the Law School community or is no longer affiliated with the Law School at the time of the report or at the time the resolution process is initiated (including when the respondent has graduated or left the Law School), the Law School's ability to take disciplinary action may be limited.

7. Purpose

The Law School is committed to fostering an environment in which all members of the Law School community are safe, secure, and free from prohibited discrimination, harassment, and retaliation. When learning of conduct or behavior that may not meet these standards, community members and the Law School are expected to take an active role in upholding this policy and promoting the dignity of all individuals by reporting the conduct to the Student Services Office (student conduct) or Human Resources (employee or other individual's conduct).

8. Definitions of participants

A "reporting party" is a person who has been impacted by an alleged policy violation.

A "respondent" is a person who is alleged to have violated a Law School policy.

"Parties" refers to the reporting party and the respondent collectively.

A "witness" is a person who has knowledge related to specific aspects of a case.

An “advisor” is a support person who may be present to provide support to a reporting party or respondent throughout a resolution process. In general, an advisor may not also serve as a witness in the same matter. Please see section C.1.g for more information regarding the role of an advisor.

9. Implementation

a. *Prohibited conduct*

i. Discrimination

Discrimination includes treating someone differently in matters of admissions, employment, housing, or services, or participation in educational programs or activities operated by the Law School based on that individual’s actual or perceived membership in a legally protected class. In determining whether discrimination occurred, the Law School will evaluate whether a legally protected class was a motivating factor in the adverse action.

Discrimination can also include policies or practices that are neutral on their face but disproportionately exclude or adversely impact people within a legally protected class. When evaluating a complaint that alleges discrimination by disparate impact, the Human Resources Office or Student Services Office, as applicable, will evaluate whether the reported policies or practices are job-related and consistent with business necessity (for employees) or necessary to meet an important educational goal (for students).

Examples of discrimination may include:

- Denying someone access to an educational program based on a protected characteristic;
- Denying someone access to a Law School facility based on their inclusion in a protected class;
- Refusing to hire or promote someone based on their inclusion in a protected class; and
- Reducing someone’s job responsibilities or excluding them from professional development opportunities because of their protected status.

ii. Harassment in employment

Harassment in employment is unwelcome conduct that is based on a protected category listed above. Such conduct is considered unlawful when:

- It creates a work environment that a reasonable person would consider intimidating, hostile, or abusive, or

- Enduring the offensive conduct becomes a condition of continued employment.

Examples of conduct that may constitute harassment based on a protected category may include, but are not limited to:

- Making threats or engaging in conduct that a reasonable person in the targeted individual's position would find physically intimidating or threatening;
- Repeated and targeted verbal abuse that exceeds the bounds of protected expression and creates a hostile environment;
- Displaying derogatory or obscene materials in a manner that is targeted, persistent, and interferes with an individual's ability to work, learn, or participate in institutional programs.

iii. Sexual harassment in employment

Under this policy, sexual harassment can include conduct on the basis of sex, including unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made a condition of employment or employment decision (quid pro quo) or meets the definition of harassment as stated above (hostile work environment). Examples of conduct that may constitute prohibited sexual harassment include, but are not limited to:

- Unwanted physical touching;
- Telling sexually explicit jokes or stories;
- Making comments or gestures reasonably regarded as lewd or offensive;
- Displaying sexually suggestive objects, cartoons, or pictures;
- Sending sexually explicit messages by letter, notes, electronic mail, text, app, social media posting, or phone;
- Making unwelcome comments reasonably regarded as offensive about a person's body, physical appearance, or clothing;
- Frequently using unwelcome terms of endearment; or
- Repeatedly asking an individual for a date or meeting outside of working hours after they have indicated an unwillingness to go.

Certain types of sexual harassment may also be addressed by the Law School's Sexual Misconduct Policy.

Consistent with its obligations under the Jeanne Clery Campus Safety Act (Clery Act), the Law School also prohibits sexual assault, dating violence, domestic violence, and stalking based on sex by and against its employees. If this conduct does not fall under the jurisdiction of the Sexual Misconduct Policy, the Law School reserves the right to address this conduct under the procedures of this policy, using the same definitions of prohibited conduct as the Sexual Misconduct Policy and the definition of affirmative consent for cases of sexual assault involving students. In these cases, as required by the Violence Against Women Act (VAWA), the parties will be entitled to have an advisor of choice at any meetings or proceedings and to receive simultaneous notice of the outcome, results, and the available appeal procedures.

iv. Harassment of students

In addition to the conduct prohibited by the Sexual Misconduct Policy, employees may not engage in specific forms of prohibited conduct against the Law School's students, including harassing conduct (e.g., physical, verbal, graphic, or written) that is so sufficiently severe, pervasive, or persistent that it interferes with or limits the ability of a student to participate in or benefit from the services, activities, or privileges provided by the Law School. Employees are also prohibited from sexually harassing students, which is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions: (a) submitting to or rejecting the conduct is explicitly or implicitly made a term or a condition of a student's employment, academic status, or progress; (b) submitting to or rejecting the conduct is used as the basis of academic decisions affecting the individual; (c) the conduct has the purpose or effect of having a negative impact upon the student's academic performance, or of creating an intimidating, hostile, or offensive educational environment; or (d) submitting to or rejecting the conduct is used as the basis for any decision affecting a student regarding benefits and services, honors, programs, or activities available at or through the Law School.

Complaints by students (except student-employees who are making a complaint in their capacity as employees) against employees will use the above definitions and be resolved pursuant

to this policy unless otherwise covered by the Sexual Misconduct Policy.

v. Anti-abuse/molestation

In its operations and activities, the Law School prohibits all conduct meeting the definition of unlawful sexual abuse or neglect of minors set forth in California Penal Code 11164. All individuals involved in the Law School's operations are covered by this policy. The Law School reserves the right to determine the appropriate procedures for handling allegations of violations of this provision, depending on the nature of the conduct and the age of the minor.

vi. Retaliation

The Law School prohibits retaliation against any member of its community for reporting in good faith an incident of discrimination or harassment or for participating in an investigation or resolution process under this policy. Retaliation includes materially adverse actions that would dissuade a reasonable person from engaging in protected activity under this policy, such as reporting misconduct or serving as a witness. Retaliatory conduct includes threats, coercion, intimidation, or harassment

This policy does not prohibit good-faith actions taken for legitimate reasons, including performance-related decisions, disciplinary measures unrelated to the underlying report, or exercising academic or managerial judgment.

Retaliation can be committed by or against any individual or group of individuals.

A person may not direct another to take retaliatory action on their behalf.

vii. Consequences of violating this policy

Individuals who violate this policy may be subject to discipline up to and including expulsion or termination of employment. If a matter involves conduct covered by this policy and another policy, the Law School may choose to proceed under either or both policies. With respect to full-time faculty, this policy and applicable policies in the Faculty Manual will be consulted in determining the outcome of a matter.

b. Reporting

While there is no absolute time limit for reporting an incident of discrimination, harassment, or retaliation, the Law School strongly encourages individuals to file reports as soon as practicable after the alleged conduct occurs. Delay in reporting may impair the Law School's ability to investigate, gather evidence, and respond effectively. Memories may fade, witnesses may become unavailable, and records may be lost over time.

The Law School retains discretion to determine whether a report will be investigated or otherwise addressed, considering factors such as the passage of time, availability of evidence, and fairness to all parties involved. In appropriate cases, the matter may be resolved under the Sexual Misconduct Policy or another applicable policy.

The information below is for individuals who wish or are required to report violations of this policy. Anyone wishing to or required to report conduct prohibited by this policy to the Student Services Office may do so in person, by email, by regular mail, or by phone. Every report of an alleged violation of this policy will receive a written acknowledgment from the Civil Rights Investigator if the reporter's identity is provided.

While the Law School will review anonymous reports, the ability to address misconduct reported by anonymous sources is significantly limited.

To make a report, please contact the following:

Associate Dean, DEI Initiatives, Nydia Johnson (**through June 30, 2025**)
Location: 3050 Wilshire Boulevard, Suite W524, Los Angeles, California 90010
Email: DEI@swlaw.edu

Associate Dean Jordan Hall (**starting July 1, 2025**)
Location: 675 S. Westmoreland Avenue, Suite 102, Los Angeles, California 90010
Email: studentservices@swlaw.edu

After receiving a report, if the identity of the individual reporting is known, an office representative will contact the reporting party and the person who may have experienced the prohibited conduct, if different. The outreach will generally include information about the applicable policy, options for pursuing a complaint, and relevant resources. The outreach will also include an invitation to meet with or provide additional information to an appropriate staff member.

c. *Respondent no longer affiliated with the Law School*

If the individual alleged to have engaged in prohibited conduct is no longer affiliated with the Law School at the time a report is made or during the course of an investigation, the Law School's ability to investigate or take corrective action may be limited.

In such circumstances, the Law School reserves the discretion to:

- Conduct a limited review to the extent practicable;
- Issue no contact-orders, campus access restrictions, or other measures as appropriate to protect the community;
- Document the report for future reference should the individual seek reaffiliation with the Law School; or
- Notify appropriate external authorities where legally required.

In all cases, the Law School will balance the interests of the parties, the integrity of its educational programs and activities, and the principle of fairness and equity in determining its response.

d. *Reporting obligations*

All Law School employees are obligated to promptly report conduct prohibited by this policy that they become aware of in the scope of their work for the Law School to the Student Services Office.

The Law School encourages all individuals—including students—to report conduct prohibited by this policy to the Law School's Student Services Office.

Any and all instances of child abuse or neglect toward a minor (person under the age of 18), including but not limited to, inappropriate physical conduct, assault, unwanted touching, molestation, or any other sexual misconduct required to be reported by law, will be promptly reported to the appropriate local law enforcement agency and local child protective services agency as required by law. All employees whose duties bring them into contact with minors on a regular basis or any employees who supervise those whose duties bring them into contact with minors on a regular basis, and any members of the Human Resources department, are required to report to Child Protective Services and to Human Resources any allegations, reports or concerns of child abuse, child molestation, or neglect occurring on the Law School's premises or at an official activity of, or program conducted by the Law School.

All persons involved in the Law School's operations are required to report any possible concerns of unlawful sexual abuse or neglect of minors set forth in California Penal Code 11164 to Human Resources immediately.

e. *Free expression and academic freedom*

The Law School is committed to upholding this policy, its Academic Freedom Policy, and its Free Expression Policy. These commitments are all essential to the health and integrity of the Law School's educational environment.

The Law School recognizes that protecting individuals from unlawful discrimination and harassment, safeguarding academic freedom, and promoting free expression are each vital goals. However, consistent with federal law and institutional values, the Law School affirms that lawful expression, debate, or academic inquiry—even when controversial or offensive to some—will not constitute discrimination or harassment unless it meets the applicable legal standards.

When a matter implicates multiple policies, the Law School will carefully consider the requirements of each but will not interpret or apply its policies in a manner that infringes on rights protected by law.

f. *Religion*

The Law School prohibits discrimination, harassment, and retaliation based on religion. This policy includes protections for employees and students who express their religious beliefs respectfully or who decline participation in Law School activities that conflict with their sincerely held beliefs, provided such actions do not infringe on the rights of others or disrupt the educational or work environment. No employee or student will be subject to adverse action for expressing or refraining from expressing religious viewpoints.

B. Resources

1. Confidential resources

The following confidential resources are available for individuals to discuss incidents and issues related to conduct prohibited by this policy. Confidential resources are not obligated to disclose reports of discrimination or harassment to the Student Services Office but may be required to disclose certain information in the event of a threat to self or others. Please consult with the confidential resources about the scope of their obligations before disclosing any information.

Student Resource	Contact Information	Description
BisonCares	1-833-434-1217 The international number is +1-984-268-2016 .	The BisonCares program offers Southwestern students a variety of free 24/7 mental health support options.

Student and Employee Resource	Contact Information	Description
HELPNET	1-800-435-7638	A private consulting firm that can refer counseling services and community resources. This is a confidential resource that is available 24 hours a day, seven days a week.

2. Educational training, awareness, and educational programs

The Law School offers a variety of training programs to address discrimination, harassment, and retaliation within the Law School community. The Law School strives to ensure that such programming is developed to be culturally relevant; trauma-informed; inclusive of diverse communities and identities; sustainable; responsive to community needs; informed by research or assessed for value, effectiveness, and outcome; and considerate of environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

C. Discrimination, Harassment, and Retaliation Complaint Resolution Process

1. General procedures

a. Introduction

The following procedures outline the process the Law School follows when it receives a report alleging a violation of this policy by a member of the Law School community. For purposes of this policy, "a member of the Law School community" means current faculty (as defined by the Faculty Handbook), non-probationary current staff members, Board of Trustees members, and students. Others who are accused of discrimination, harassment, or retaliation are not entitled to the process set forth in this policy. The Law School will exercise its discretion to review complaints involving these individuals.

The Student Services Office is responsible for handling reports of violations of this policy. In addition, the Office may make findings on other potential policy violations arising out of the same complaint in place of another Law School investigation process that otherwise would apply or refer the potential policy violation to the appropriate Law School office, or unit. All reports will be handled in a prompt, fair, and impartial manner in accordance with relevant laws and regulations, applicable Law School policies, and this policy. The Law School will take appropriate action in response to complaints or knowledge of such behaviors while preserving the rights of those against whom allegations have been made to receive

procedural protections in the fact-finding and decision-making process. All such investigations will be conducted by qualified, impartial personnel in a manner that is fair, equitable, and timely to all parties. The Law School maintains the privacy of investigations to the extent possible, documents, and tracks investigations to ensure reasonable progress, and closes investigations in a reasonably timely manner.

The process described below is the Law School's internal process to determine whether a Law School policy was violated and is not a court system. As such, the Law School's process does not use the same rules of procedure or evidence as those used by courts or law enforcement.

Because allegations of discrimination, harassment, and retaliation can sometimes raise challenging new issues, the Law School reserves the discretion to take reasonable actions to address those issues in a manner consistent with the spirit of this policy while preserving fairness for both parties and maintaining the integrity of the resolution process.

b. Participating in the process

The Law School encourages all parties and witnesses to participate fully in the complaint resolution process. For the Law School to respond fully to the allegations, most situations will require the reporting party's participation and that their identity be disclosed to the respondent.

If a reporting party decides not to participate but wants disciplinary action to be taken, the Law School will determine whether it is possible to proceed with the formal resolution process described below. In some cases, it will not be possible for the Law School to proceed without the reporting party's participation. If a respondent elects not to participate in any part of the process, the Law School may proceed without the respondent's participation. Respondents will be held accountable for any outcomes issued, even if they decline to participate.

When individuals report allegations of discrimination or harassment to the Law School but do not consent to the disclosure of their names or refuse to disclose the identity of or identifiable information about the alleged offender, the Law School's ability to respond to the reports may be limited. When a reporting party requests anonymity or does not wish to proceed with an investigation, the Law School will attempt to honor that request, but in some cases, the Student Services Office may determine that the Law School will proceed with an investigation, particularly in cases involving employees or as otherwise required by law. In those situations, the Law School will not compel the reporting party to participate. The Office will consider the following factors in reaching a determination about whether to proceed:

- The totality of the known circumstances;
- The nature and scope of the alleged conduct;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of the reported behavior recurring;
- Whether there have been other reports of misconduct by the respondent;
- Whether the report reveals a pattern of misconduct at a given location or by a particular group;
- The reporting party's interest in the Law School not pursuing an investigation or disciplinary action and the impact of an investigation on the reporting party;
- Whether the Law School possesses other means to obtain relevant evidence;
- Fairness considerations for both parties;
- The Law School's obligation to provide a safe and non-discriminatory environment; and
- Any other available and relevant information.

All participants must be completely truthful with the information they share at all stages of the process. Any individual who deliberately makes a material misrepresentation in bad faith during any stage of a report or investigation under this policy will be subject to disciplinary action in accordance with institutional policies and procedures. This provision does not apply to a good-faith report that is not substantiated (i.e., proven by a preponderance of the evidence).

c. *Privacy and sharing of information*

The Law School considers reports and investigations of discrimination and harassment to be private matters for the parties involved. For that reason, the Law School will protect the identity of persons involved in reports of discrimination and harassment to the best of its ability. The Law School will share personally identifiable information only with persons with a need to know for the Law School to investigate and respond or to deliver resources or support services. The Law School does not publish the names or post identifiable information about persons involved in a report of discrimination or harassment. However, the Law School cannot promise confidentiality or complete privacy in handling discrimination and harassment reports or complaints.

All participants in an investigation of discrimination or harassment will be informed that privacy enhances the integrity of the investigation, protects the privacy interests of the parties, and protects the participants from statements that might be interpreted to be retaliatory or defamatory. For these reasons, all participants involved in the resolution process will be

asked at the beginning of the investigation to exercise discretion, to the extent consistent with applicable law.

d. *Case resolution timeline*

Although the Law School strives to resolve all cases in a prompt and timely manner, the timeline varies based on the circumstances of the case. Additionally, the timeline for a case may be affected by breaks in the academic calendar, availability of the parties and witnesses (including leaves of absence), the scope of the investigation, the need for interim actions, and unforeseen or exigent circumstances. The Law School reserves the right to adapt or modify the process, including timelines, to ensure the equitable resolution of a report of prohibited conduct. In those instances, the Law School will notify both parties of the modified process and, if appropriate, the exceptional circumstances requiring the Law School to adapt or modify the process. The Law School will periodically update the parties on the case status.

e. *Conflicts of interest*

The Law School reserves the right to use an adequately trained internal or external investigator, review panel member, or appeal board member as it deems necessary. No decision-maker will have a conflict of interest or bias in favor of or against reporting parties or respondents generally, or in favor or against the parties to the particular case. For purposes of this policy, a conflict of interest exists when a decision-maker has interests or relationships, including personal or business relationships, with any party that might reasonably be construed to affect the member's independent, unbiased judgment when making or participating in making decisions, or where those decisions will or could materially benefit them directly, or indirectly. Parties will have three business days to object to the selection of an investigator, review panel member, or appeal board member on the basis of conflict of interest or bias. The Student Services Office will determine whether a conflict of interest or bias exists. No investigator, review panel member, or appeal board member will make findings or determinations in a case in which they have a conflict of interest.

f. *Standard of evidence*

The Law School uses the preponderance of the evidence standard in investigating complaints alleging violations of this policy. This means that the investigation determines whether it is more likely than not that a violation of this policy occurred. A preponderance of the evidence standard is also used for the review of appeals.

g. Advisor

Reporting parties and respondents are permitted to bring an advisor of their own choosing, including a family member or attorney, to provide support. Law School employees may not serve as advisors. The advisor may accompany the reporting party or respondent to all portions of the resolution process. The advisor may not participate directly in, or interfere with, the proceedings. Although reasonable attempts will be made to schedule proceedings consistent with the advisor's availability, the process will not be delayed to schedule the proceedings at the convenience of the advisor. Advisors who do not abide by these guidelines may be excluded from the process.

2. Process

a. Initial inquiry

The Student Services Office will make the initial inquiry about whether the report falls within the scope of the Sexual Misconduct Policy, this policy, or neither. Following an initial inquiry, possible next steps include:

- Close the case: The Office may close a case when the alleged misconduct—even if substantiated—would not be a violation of this policy. The Office may, at its discretion, reopen a case in the future if additional information becomes available. Each closure decision will be documented in writing.
- Informal action (See Section C.2.b. below)
- Formal resolution (commonly referred to as an investigation) (See Section C.2.c. below)

The scope and timing of further action will depend upon a number of factors, including but not limited to, whether the identity of the reporting party or respondent is known; whether the reporting party is willing to participate in an investigation; whether the reporting party requests anonymity; whether the reporting party or respondent is affiliated with the Law School; whether the matter is currently under review in another forum (local/state/federal agency or court); and whether the Law School has an obligation to proceed with an investigation based on the nature of the conduct alleged, regardless of the reporting party's wishes.

b. Informal action

Informal action involves measures taken by the Law School in response to a situation or report of discrimination or harassment when formal resolution is not desired by the person who may have experienced the conduct or when there is not enough information to proceed with a formal resolution process against a known respondent. Informal action must be approved by the Student Services Office and is not used when

the Student Services Office has determined that the Law School needs to proceed with an investigation. Informal action may include transformative justice practices, mediation, or other informal action determined by the Student Services Office to be appropriate.

Informal action does not result in findings related to responsibility or sanctions. Informal action does not preclude further steps, including formal resolution if a complaint is later made or additional information is received by the Student Services Office. Informal actions include, but are not limited to:

- An educational meeting with the subject of the report;
- Training for a group or unit; or
- An advisory letter.

c. *Formal resolution (investigation)*

i. Notification to parties

The formal complaint resolution process operates under a standard of fairness for all parties involved. If a case is referred for formal resolution, the Civil Rights Investigator will notify the reporting party and respondent simultaneously of the opening of the investigation in writing. The notification will include the allegations, identities of the parties involved in the particular matter, the section of this policy that was allegedly violated, the precise conduct allegedly constituting the potential violation, and the date and location of the incident (if known). This notice will be given to the respondent before any initial interview of the respondent. The Law School may modify the notice of allegations based on additional information learned during the investigation. If additional Law School policies are being investigated concurrently with the alleged violations of this policy, the notice will specify those policies, and this process will be the sole process for investigating, adjudicating, and appealing determinations of violations of those policies.

ii. Acceptance of responsibility

Before an investigation is concluded, the respondent may elect to take responsibility for the prohibited conduct by contacting the Student Services Office in writing. When accepting responsibility is appropriate, the Student Services Office will issue a brief outcome determination summarizing the allegations and stating the respondent has accepted responsibility and the matter will proceed to the review panel for sanctioning. Following the

determination of sanctions, parties may appeal the sanctions but not any finding of responsibility.

iii. Withdrawal of complaint

Before an investigation is concluded, the reporting party may request to withdraw the complaint by contacting the Student Services Office in writing. The Student Services Office will determine whether to close the case or conclude the investigation without the reporting party's continued participation. The Civil Rights Investigator may be required to investigate even if the reporting party requests to withdraw the complaint.

iv. Investigation

The Civil Rights Investigator investigates complaints proceeding through formal resolution. Depending upon the circumstances, the Student Services Office may assign additional investigators. In some cases, another Law School office may investigate under the direction of the Student Services Office, or an outside investigator may be retained. All investigators are educated on the Law School's policies and procedures. Depending on the circumstances and at its discretion, the Law School may consolidate for investigation and sanctioning multiple complaints involving the same respondent or complaints where the parties have made allegations against each other.

- **Preliminary investigative report:** After each party has had the opportunity to meet with the investigator, identify witnesses, and suggest questions, and the investigators have completed witness interviews and the gathering of evidence, the investigator will prepare a preliminary investigative report. The preliminary investigative report will include a summary of the information provided by the reporting party, the respondent, and each witness during the investigation (including relevant supporting evidence provided by either party or witnesses). The preliminary investigative report will not contain any factual findings. The parties will be provided with an opportunity to review the preliminary investigative report and respond. Typically, the preliminary investigative report will be provided to each party electronically. Parties are expected to maintain the privacy of this document and may not distribute this document. However, each party may share the report with their advisor or legal counsel, with instructions to treat the document as confidential. Unauthorized distribution of this

document may result in referral to the appropriate office for disciplinary action.

The parties may each submit comments, feedback, additional documentary evidence, requests for additional steps in the investigation, names of additional witnesses, or any other information they deem relevant to the investigator within five business days after the preliminary investigative report is made available for review. A party may request an extension in writing to the Student Services Office. The Student Services Office has the discretion to grant or deny the extension in accordance with fairness to both parties.

If new, relevant information is provided or identified by a party, the information will be incorporated into the preliminary investigative report and the parties will be provided a second and final opportunity to review the preliminary investigative report and provide feedback regarding the new information before the investigators proceed with finalizing the report. The parties may each submit feedback regarding the new information within five business days after it is made available for review. Thereafter, the investigator will finalize the investigative report, including making any factual findings based on the record.

- **Investigation outcome/findings of policy violations:**
Based on the status of the respondent, the appropriate Law School office or officer will review the final investigative report and determine whether the preponderance of the evidence shows the respondent has violated this policy or other identified policies. For cases involving a student respondent, the appropriate office is the Student Services Office. For cases involving a faculty respondent, the appropriate officer is the Vice Dean or their designee. For cases involving staff respondents, the appropriate officer is the Chief Operating Officer or their designee. For cases involving a Board of Trustees respondent, the appropriate officer is the Board of Trustees Chair or their designee. The reporting party and the respondent will both be notified simultaneously of the outcome of the investigation.

During an investigation, the reporting party will have the opportunity to describe their allegations and present supporting evidence to the investigator. The respondent will have the opportunity to receive notice of the allegations and evidence being considered against them, respond to them, and present supporting evidence to the investigator. Investigation meetings are not audio or video recorded by the Law School and may not be recorded by any participant.

Parties and witnesses may take notes during investigation meetings. Generally, the investigator will meet with each party and each witness separately and may hold multiple meetings with a party to obtain all necessary information. The parties may submit additional materials or information to the investigator. In all cases, both the reporting party and respondent will have equal opportunities to share information and have their information considered.

The reporting party and the respondent may present names of potential witnesses and questions the investigator might ask the other party. Reporting parties and respondents should identify only factual witnesses, not character or expert witnesses. The investigator will take the lists provided by the reporting party and respondent into consideration when identifying whom they will interview and what questions they might ask, but these decisions are solely within the investigator's discretion. The investigator may also choose to interview witnesses not identified by the parties.

v. Sanctions

If the report proceeds through formal resolution and the respondent is found responsible for violating this policy or other policies contained in the notice of allegations, the Law School will issue sanctions commensurate with the violation. The Student Services Office will designate three trained individuals to serve on a panel ("Review Panel") to determine sanctions. The Office will notify the parties, in writing, of the names of each panelist within three business days upon receipt of the Final Report. Both parties will have three business days to object to each Review Panelist based on bias or conflict of interest. If either party objects, the Student Services Office will evaluate whether the objection is

substantiated. The Student Services Office will remove and replace any Review Panelist believed to have a bias or conflict of interest against either party.

The Student Services Office will notify the parties that they may submit statements regarding the appropriateness of any sanctions to the Review Panel five business days after the date to object to the Review Panelists has expired. The Review Panel will review all materials in the case, including the Final Report and any exhibits, in assessing the appropriate sanction. The Review Panel does not have the power or ability to alter the factual findings or the finding of responsibility in the Final Report.

The Review Panel will issue a recommendation to the Student Services Office regarding sanctions within five business days of receiving all materials in the case. The Office will attempt to issue final sanctions within ten business days of receipt of the Review Panel Recommendation. For conduct that meets the definition of dating violence, domestic violence, stalking, or sexual assault as defined by the Clery Act and that is not being processed under the Sexual Misconduct Policy, the Office will notify the parties of the sanctions simultaneously in writing. Otherwise, the reporting party will be notified of sanctions about which they are entitled to know by law, which includes sanctions that impact them (i.e., a no-contact order).

vi. Appeal

Both the reporting party and the respondent have a limited right to appeal the findings set out in the Final Report. If the Final Report concludes that the respondent did not violate this policy (or any policy in the notice of allegations), the reporting Party has five business days from receiving written notice of the Investigation Outcome to submit a written appeal. If the respondent has been found responsible for one or more violations, but not others, the reporting Party may submit a written appeal within five business days of notice of the sanction. If the Final Report concludes that the respondent violated one or more policies, the respondent has five business days from receiving written notice of the sanction to submit a written appeal to the Student Services Office.

The Party who submits the written appeal will be the "Appellant," and the other Party will be the "Appellee." The Appellant's written appeal must be based on one of three grounds:

- **Significant procedural error:** A procedural error occurred that significantly impacted the outcome of the investigation as it applies to the Appellant (e.g., substantiated bias, material deviation from established procedures, etc.). A description of the error and its impact on the outcome of the case must be included in the written appeal.
- **New information:** New information has arisen that was not available and could not have been known to the Appellant during the investigation and that could significantly impact the findings. Information that was known to the Appellant during the investigation or hearing but which they chose not to present is not new information. A summary of this new evidence and its potential impact on the investigation findings must be included in the written appeal.
- **Disproportionate sanctions:** Sanctions that are manifestly contrary to the weight of the information presented (i.e., unreasonable and unsupported by the findings).

Appellee will have five business days to submit a response. At the conclusion of these time periods, the Student Services Office will refer the written appeal, any response thereto, and the Investigation Outcome with attached exhibits (the "Appeal Record"), to an Appeals Board.

The Student Services Office will notify both parties of the members of the Appeals Board within three business days of receipt of the written appeal. Both parties will have three business days to object to members of the Appeals Board based on bias or conflict of interest. The Student Services Office will consider any objection on the grounds of bias or conflict of interest. If the Student Services Office determines that a member of the Appeals Board may have bias or conflict of interest, the Student Services Office will remove the individual and designate a new member.

The role of the Appeals Board is limited. The Appeals Board will not reassess credibility or reweigh evidence except to the extent necessary to evaluate whether new information or procedural error substantially impacted the findings. Appeals are confined to a review of the Appeal Record for the grounds stated above. The findings contained in the Final Report are presumed to have been decided reasonably and appropriately. The Appellant carries the burden of proof to demonstrate that either the alleged error or

the proposed new evidence would significantly and materially impact the outcome of the proceeding.

The Appeals Board will determine whether any grounds for the appeal are substantiated. If the Appeals Board determines that the request for appeal does not meet the standards for an appeal under this policy, the Appeals Board will notify both parties of that outcome within ten business days of receipt of both the Appellant's appeal and the Appellee's response. If the Appeals Board determines that the request for appeal does meet the standards for an Appeal under this policy, the Appeals Board will take appropriate action as indicated below.

- **Significant procedural error:** If it is determined that a procedural error occurred that was substantially prejudicial to the outcome of the investigation, the Appeals Board may return the complaint to the Investigator with instructions to correct the error, and to reconsider the findings as appropriate. In rare cases, where the procedural error cannot be corrected by the original Investigator (as in cases of bias), the Appeals Board may order a new investigation with a new Investigator.
- **New information:** If the Appeals Board determines that new information should be considered, the complaint will be returned to the investigator to reconsider the complaint considering the new information only, and to reconsider the original findings as appropriate. The investigator will prepare an Addendum to the Final Report.
- **Disproportionate sanctions:** If the Appeals Board determines that the sanctions are manifestly contrary to the weight of the information presented, the Student Services Office and the Review Panel will collaborate to issue appropriate sanctions.

The Law School will attempt to issue a notice in writing of the outcome of the appeal within ten business days of receipt of Appellee's response statement. The Appeals Board's decision is final and is not subject to appeal.

D. Required Training

Every employee, upon hire and annually thereafter, is required to review this policy and acknowledge that they have read and understand its content. Supervisors undergo mandatory sexual harassment prevention training within six months of initial employment and biennially thereafter. Additionally, all non-supervisory employees,

including temporary employees and volunteers, must complete a one-hour workplace sexual harassment prevention training within six months of their initial employment and biennially thereafter. The Department of Fair Employment and Housing offers sexual harassment training at: <https://www.dfeh.ca.gov/shpt/>.

E. Policy Revisions

The Law School reserves the right to revise this policy at any time and for any reason. Revisions may be enforced on 15 days' notice to the student body. Notice may be made via the student listserv or in another manner deemed by the Dean to reach most students.

Appendix A

Policy to Prevent Discrimination, Harassment, and Retaliation Important Process Steps and Deadlines

Step	Description	Policy Reference	Anticipated Deadlines*
Written Notice of Investigation to Parties	The notification will include allegations, identities of the parties, the Section of this policy that was allegedly violated, the precise conduct allegedly constituting the potential violation, and the date and location of the incident (if known). Notice will be given to the Respondent before any initial interview of the Respondent.	C.2.c.i. Page 18	
Preliminary Investigative Report	The Preliminary Report will include a summary of the information provided by the Reporting Party, the Respondent, and each witness during the investigation. The Preliminary Report will not contain any factual findings.	C.2.c.iv. Page 19	The parties may submit additional documentary evidence within five business days after the preliminary report is made available
Investigation Outcome/Findings of Policy Violations	Depending on the status of the Respondent (faculty, staff, or student), the appropriate office will determine whether the preponderance of the evidence shows the Respondent has violated this policy or other identified policies.	C.2.c.iv. Page 20	
Sanctions (if applicable)	The Student Services Office will designate three trained individuals to serve on a panel ("Review Panel") to determine sanctions.	C.2.c.v. Page 21	Three business days to object to each Review Panelist on the basis of bias or conflict of interest Submit statements regarding the appropriateness of any sanctions to the Review Panel five business days after the date to object

			to the Review Panelists has expired. The Review Panel will issue recommendation regarding sanctions within five business days of receiving all materials in the case.
Appeal	Grounds for appeal are limited to significant procedural error, new information, and disproportionate sanctions.	C.2.c.vi. Page 22	<p>Parties have five business days from receiving written notice of the Investigation Outcome or Notice of Sanctions to submit a written appeal.</p> <p>Notification to parties of the members of the Appeals Board within three business days of receipt of the written appeal.</p> <p>Parties have three business days to object to members of the Appeals Board on the basis of bias or conflict of interest.</p> <p>Notice in writing of the outcome of the appeal within ten business days of receipt of Appellee's response statement.</p>

*Anticipated deadlines are subject to change pursuant to Section C.1.d.