

# Grievance Procedure for Discrimination

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The University of the South stands firmly for the principle that its students and employees (faculty and staff) have a right to be free from discrimination and harassment based on race, color, sex, religion, national origin, age, disability, sexual orientation, veterans' status, and genetic information and free from sexual misconduct, in its educational programs and activities and with regard to employment. The University also prohibits retaliation against any person who brings a good faith complaint under this policy or is involved in the complaint process. Conduct that violates this policy may also violate state or federal law. Students or employees who violate this policy will be disciplined, which may include dismissal from the University or termination from employment.

Conduct prohibited by this policy does not include simple teasing, offhand comments, or isolated incidents that are not extremely serious. Rather, conduct that rises to the level of harassment must be so offensive as to substantially alter the conditions of employment or the educational environment. If the harassment culminates in a tangible employment or education action or is so severe or pervasive that a hostile work or education environment is created, then the conduct is prohibited. Examples of tangible employment actions include hiring and firing; promotion and failure to promote; demotion; and significant change in benefits. Examples of tangible education actions include lowering or raising a grade and passing or refusing to pass a student in any course. A hostile environment may result from actions between students or between employees and students. Conduct that may create a hostile environment includes offensive statements and comments, unwelcome touching, and displays of offensive pictures or other materials. Unwelcome sexual advances, requests for sexual favors, or other unwanted verbal or physical conduct of a sexual nature may constitute sexual misconduct. Sexual contact without consent by means of force, intimidation, or victim incapacity may also constitute sexual misconduct.

Employees and students are strongly encouraged to report all incidents of discrimination, harassment, sexual misconduct, and retaliation. All supervisors must report such incidents to their division head. Employees and students who make complaints under this policy or provide information related to such complaints will be protected against retaliation. No one will be reprimanded or discriminated against in any way for initiating an inquiry or complaint in good faith. Once an inquiry or complaint is made, efforts will be made to resolve the problem within a reasonable time. All complaints will be reported to the University's legal counsel, who advises the University about the implementation of this policy.

Confidentiality of complaints will be protected to the extent reasonably possible, but complete confidentiality is not possible since the University cannot conduct an effective investigation without revealing certain information to the person accused of violating the policy and to potential witnesses. However, the University will disclose information only to those who need to know about it. It is important that the complainant, the respondent, and others involved in a complaint (witnesses, advisors) also use discretion when discussing the matter, and are encouraged to maintain confidentiality. In a small community, public discussion of matters covered by this policy can be hurtful.

## Whom to Contact

Problems, questions, and complaints may be discussed with the Vice Provost for Planning and Administration, who is the compliance coordinator for Title IX, which prohibits gender-based discrimination and harassment, including sexual violence. The Vice Provost's office is in Walsh-Ellett Hall, room 104. The Director of Human Resources, the Dean of the College, the Dean of the School of Theology, the Dean of Students in the College, and the Associate Dean for Community Life in the School of Theology are also available to discuss matters covered by this policy. These administrators may be helpful in advising and aiding a person's own efforts to resolve a problem. Such help may involve coaching the individual in preparation for a conversation with the person causing the problem; assisting the individual in writing a letter to that person describing the offending behavior and requesting that it stop; or offering to meet with the person causing the problem.

## Informal Resolution

In many instances, informal discussion and mediation can be helpful in resolving perceived instances of discrimination, harassment, sexual misconduct, or retaliation. Problems are sometimes easier to resolve when an informal atmosphere encourages people to identify the problem, talk about it, and agree on how to deal with it. Merely discussing a complaint does not commit one to making a formal charge. Informal resolution may be stopped at any time in order to pursue the formal complaint process. Complaints of sexual violence will not be subject to mediation.

## Formal Complaint Procedures

Any person who believes himself or herself to be the object of discrimination, harassment, sexual misconduct, or retaliation involving a member of the faculty, staff, student body or other person affiliated with the University may choose, either initially or after having sought an informal resolution, to bring a complaint through the University's formal procedures. Complaints of sexual misconduct, including sexual violence, against College students normally will be handled according to the Sexual Misconduct Policy located at <http://life.sewanee.edu/support/consent>.

## When to File a Complaint

Prompt reporting of an incident is strongly urged, since it is often difficult to determine the facts of an incident long after the incident has occurred. In order to facilitate an adequate investigation, the complaint process must be initiated 90 days of the incident.

## How to File a Complaint

- a. The Vice Provost for Planning and Administration, the Director of Human Resources, the Dean of the College, the Dean of the School of Theology, the Dean of Students in the College, and the Associate Dean for Community Life in the School of Theology are authorized to receive formal complaints.
- b. The complainant (the party making the complaint) may have a University employee or student present at the discussion of the complaint.
- c. After discussion with a person authorized to receive a formal complaint, the complainant will be asked to submit a signed, written statement describing the complaint. This statement will be shown to the accused person (respondent).
- d. If the person receiving the complaint is not the Vice Provost, that person will forward the complaint to the Vice Provost who will appoint someone to gather information about the allegations.
- e. Use of these internal procedures does not foreclose subsequent legal action. Individuals may wish to obtain legal advice as they consider the courses of action open to them. However, the proceedings described here are not those of a court of law and the presence of legal counsel is not permitted during these discussions.

## Protection of the Complainant and Respondent

Throughout the complaint process, efforts will be made to protect the complainant from retaliation (which should be reported to any individual authorized to receive a complaint), and to protect the respondent from irresponsible complaints. Any person who intentionally makes a false accusation is subject to disciplinary action.

## The Complaint Process

- a. The timetable set forth below is approximate. The person appointed by the Vice Provost to gather the facts, after consultation with the Vice Provost, may allow additional time for any of the steps noted. Both the complainant and respondent will be notified if such a change is made.
- b. Within 10 business days of receiving the written complaint, the fact-gatherer will consult with the complainant and with the respondent, and others if appropriate, in order to ascertain the facts and views of both the parties.
- c. The fact-gatherer will prepare a summary of the relevant information within 30 calendar days of receiving the written complaint. A draft of the summary will be shown to the complainant and the respondent in order to permit them the opportunity to respond before a final report is made. Any response must be given to the fact-gatherer within three business days of receiving the draft summary.
- d. The fact-gatherer's final report will be sent to the Dean of Students in the College for complaints against undergraduate students, to the Assistant Dean for Community Life for complaints against seminary students, the appropriate dean for complaints against faculty in either the College or the School of Theology, or to the Director of Human Resources for complaints against staff members or others within three days after the deadline for the complainant and respondent to comment on the draft report.
- e. The final report will be shown to the complainant and the respondent. Within three business days thereafter, the complainant and the respondent may each submit a statement to the appropriate Dean or Director of Human Resources concerning the report.
- f. Within five calendar days after the submission of any final statements from the complainant and the respondent, one of the following will occur:
  1. the Dean of Students in the College or Director of Human Resources will decide to:
    - i dismiss a complaint if it is found to lack sufficient evidence or to otherwise be without merit; or
    - ii ask the fact-gatherer to consider the matter further and submit a supplementary report within five days; or
    - iii take whatever action he or she believes is warranted, which may range from reprimand to dismissal.
  2. the Associate Dean for Community Life at the School of Theology will make a recommendation to the Dean at the School of Theology who will decide to:
    - i dismiss a complaint if it is found to lack sufficient evidence or to otherwise be without merit; or
    - ii ask the fact-gatherer to consider the matter further and submit a supplementary report within five days; or
    - iii take whatever action they believe is warranted, which may range from reprimand to dismissal.
  3. the Dean of the College or School of Theology who will decide to:
    - i dismiss a complaint if it is found to lack sufficient evidence or to otherwise be without merit; or
    - ii ask the fact-gatherer to consider the matter further and submit a supplementary report within five days; or
    - iii take whatever action they believe is warranted, which may range from reprimand to dismissal. In a case where disciplinary action is to be taken, "the Dean shall notify the faculty member in writing of the reason discipline is being considered and

offer the faculty member an opportunity to respond” in accordance with Section VIII of the Personnel Procedures for Tenured and Tenure-Track Faculty at the University of the South.

The complainant, respondent, and Vice Provost will be notified of the action taken.

### **Appeals**

An appeal by a tenured or tenure-track faculty member will be handled in accordance with Section VIII of the Personnel Procedures for Tenured and Tenure-Track Faculty at the University of the South.

All other appeals may be taken to the Vice-Chancellor. Such appeals must be submitted in writing to the Vice-Chancellor's office within three business days after notification of the decision. The Vice-Chancellor may appoint an advisory committee to review an appeal.

Appeals must be based on one of the following grounds:

1. that there is new information that substantially alters the understanding of the event(s) in question;
2. that the complaint process was not substantially followed; or
3. that the sanction imposed is disproportionate to the offense.

If the appeal meets the appeal criteria and thus will receive full consideration, the opposing party will be provided a copy of the appeal and an opportunity to make a written response to the appeal. Written responses must be made within seventy-two hours of receiving the appeal. Appeal decisions are communicated to both parties and decisions are final.

A permanent record of the formal complaint process and any appeal is ordinarily retained by the University.

### **Modification of Complaint and Appeal Procedures**

The University may modify the procedures set forth above in light of the nature of the charges, the parties or witnesses involved, or other reasonable cause.