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THE UNIVERSITY  
of  
TULSA

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Owner Smith, Kathleen:  
Equal Opportunity  
Officer and  
Title IX  
Coordinator

Area Risk  
Management

## Non-Discrimination and Harassment Policy

### I. Policy Statement

As an institution of higher education, the University of Tulsa is firmly committed to providing equal opportunity for all our community members, irrespective of a person's background. The University strives to maintain a community in which all people respect the rights of other people to live, work, and learn in peace and dignity; to be proud of who and what they are; and to have equal opportunity to realize their full potential as individuals and members of society. As such, the University seeks to create an academic, residential, and working environment for students, faculty, staff, and visitors free from all forms of discrimination and harassment prohibited by law, including sexual misconduct (such as dating violence, domestic violence, and stalking), hate crimes, and issues arising under the Rehabilitation Act and the American with Disabilities Act.

This Policy is consistent with the University's core values of academic freedom and free expression. To that end, the University adopts the University of Chicago's Statement on Academic Freedom, which is incorporated in full here:

From its very founding, the University of Chicago has dedicated itself to the preservation and celebration of the freedom of expression as an essential element of the University's culture. In 1902, in his address marking the University's decennial, President William Rainey Harper declared that "the principle of complete freedom of speech on all subjects has from the beginning been regarded as fundamental in the University of Chicago" and that "this principle can neither now nor at any future time be called in question."

Thirty years later, a student organization invited William Z. Foster, the Communist Party's candidate for President, to lecture on campus. This triggered a storm of protest from critics both on and off campus. To those who condemned the University for allowing the event, President Robert M. Hutchins responded that "our students ... should have freedom to discuss any problem that presents itself." He insisted that the "cure" for ideas we oppose "lies through open discussion rather than through inhibition." On a later occasion, Hutchins added that "free inquiry is indispensable to the good life, that universities exist for the sake of such inquiry, [and] that without it they cease to be universities."

In 1968, at another time of great turmoil in universities, President Edward H. Levi, in his inaugural address, celebrated "those virtues which from the beginning and until now have characterized our institution." Central to the values of the University of Chicago, Levi explained, is a profound commitment to "freedom of inquiry." This freedom, he proclaimed, "is our inheritance."

More recently, President Hanna Holborn Gray observed that "education should not be intended to make people comfortable, it is meant to make them think. Universities should be expected to provide the conditions within which hard thought, and therefore strong disagreement, independent judgment, and the questioning of stubborn assumptions, can flourish in an environment of the greatest freedom." The words of Harper, Hutchins, Levi, and Gray capture both the spirit and the promise of the University of Chicago. Because the University is committed to free and open inquiry in all matters, it guarantees all members of the University community the broadest possible latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of the University, the University of Chicago fully respects and supports the freedom of all members of the University community "to discuss any problem that presents itself."

Of course, the ideas of different members of the University community will often and quite naturally conflict. But it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The University may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or

harassment, that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the University. In addition, the University may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the University. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the University's commitment to a completely free and open discussion of ideas.

In a word, the University's fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the University community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the University community, not for the University as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the University community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the University's educational mission.

As a corollary to the University's commitment to protect and promote free expression, members of the University community must also act in conformity with the principle of free expression. Although members of the University community are free to criticize and contest the views expressed on campus, and to criticize and contest speakers who are invited to express their views on campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe. To this end, the University has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.

As Robert M. Hutchins observed, without a vibrant commitment to free and open inquiry, a university ceases to be a university. The University of Chicago's long-standing commitment to this principle lies at the very core of our University's greatness. That is our inheritance, and it is our promise to the future.

This Policy is informed by, and should be interpreted in light of, the resolute commitment to uninhibited debate, expressive association, and academic freedom. Exposure to a wide array of ideas, viewpoints, opinions, and creative activity is an integral part of participating in higher education as students prepare for life in a global society. The rights of freedom of speech, expression, petition, religion, and public assembly are basic and essential to an individual's intellectual and social development.

The ideas and perspectives of different community members will frequently and quite naturally be in conflict. However, so long as expression does not violate University policies, it is not the University's role to attempt to shield individuals from ideas and opinions they find disagreeable or even offensive. While the University greatly values and expects civility in discourse, and although all community members are responsible for maintaining a campus climate of mutual respect, concerns about civility and mutual

respect cannot be used as a means for suppressing the discussion of ideas, however disagreeable or offensive those ideas may be to some community members.

## II. Application

This Policy applies to all members of The University of Tulsa community including students, faculty, staff, alumni, volunteers, vendors, contractors, visitors, third parties, and individuals regularly or temporarily employed, conducting business, studying, living, visiting, or having any official capacity with the University or on its property. This means that all such individuals are protected from Discrimination, Harassment, or sexual misconduct and other Prohibited Conduct within the scope of this Policy. This also means that all such individuals may be found responsible and subject to disciplinary sanctions in relation to engaging in any Prohibited Conduct.

The University strongly encourages reports of Prohibited Conduct regardless of who engaged in the conduct. Even if the University does not have jurisdiction over the Respondent, the University will take prompt action to provide for the safety and well-being of the reporting individual and the broader campus community.

This Policy covers prohibited conduct that occurs on the basis of sex that does not fall within the definitional or jurisdictional requirements of the federal regulations essential to the University of Tulsa's Title IX Policy.

## III. Definitions

Acts of Bias means conduct that is in violation of a University policy, rule, or regulation and that is motivated by discriminatory bias against, or hatred toward, other individuals or groups based on that individual's or groups' protected status.

The University protects free expression of ideas, even if they are unpopular, because this is vital in promoting learning in an educational setting. Freedom of speech protects controversial ideas, and even offensive and hurtful language, as speech cannot be limited on the basis of the idea it expresses alone.

Days means business days and excludes any Saturday, any Sunday, and any day on which the University is closed.

Discrimination is conduct of any nature that unreasonably denies an individual the opportunity to participate in, or benefit from, a University program or activity or that otherwise adversely affects a term or condition of an individual's employment, education, or living environment, because of the individual's Protected Status. Discrimination in employment can be defined, generally, as an adverse employment action directed at a specific individual, or a group of identifiable individuals based on that individual's or group's Protected Status. Discrimination in education refers to the adverse treatment of a person or persons based on Protected Status. Adverse treatment means actions which have a substantial, unreasonable, and materially negative impact on a student's participation in educational programs,

activities, opportunities, or benefits. Minor or trivial actions or conduct, although frustrating or offensive, do not constitute adverse treatment.

Gender-based Harassment is a type of Harassment that is verbal, nonverbal, graphic, or physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation or gender identity, but not involving conduct of a sexual nature, when such conduct is sufficiently severe, persistent, pervasive, and objectively offensive that it unreasonably interferes with or unreasonably limits a person's ability to participate in, or benefit from, the University's education programs or activities.

Harassment is conduct that is sufficiently severe, pervasive, and objectively offensive such that it substantially interferes with an individual's employment, education or access to University programs, activities or opportunities and would detrimentally affect a reasonable person under the same circumstances. Harassment in employment can be defined, generally, as unwelcome conduct that is based on a Protected Status, where enduring the offensive conduct becomes a condition of continued employment, or the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Harassment in education refers to unwelcome verbal, physical, or visual conduct, based upon a person or persons' Protected Status, which is sufficiently severe, persistent, pervasive and objectively offensive that it unreasonably interferes with an individual's participation in educational programs, activities, opportunities, or benefits, creating a hostile or abusive educational environment. A person can commit harassment without intending to create these outcomes.

In evaluating the severity, persistence, and pervasiveness of the conduct, the University considers whether the target(s) of the conduct, as well as an objectively reasonable person considering the conduct from the perspective of the target(s), would find the conduct to be severe, persistent, and pervasive. In some instances, a single act may be sufficiently severe as to be prohibited by this Policy.

Protected Status means an individual's age, ancestry, color, creed, disability or handicap, gender identity, genetic information, marital or family status, national origin, political belief, pregnancy, pregnancy-related conditions, race, religion, sex, sexual orientation, or veteran status, or any other legally-protected class.

Retaliation means materially adverse actions taken against an individual or group of individuals for having engaged in protected conduct. Retaliation can take many forms, including but not limited to, adverse action or violence, threats, and intimidation that would discourage a reasonable person (under similar circumstances) from making a good faith report.

Sex-based Harassment is a type of Harassment that is unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic, or physical conduct of a sexual nature, when: (1) submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (quid pro quo); or (2) such conduct is sufficiently severe, persistent, pervasive, and objectively offensive that it unreasonably interferes with or limits a person's ability to participate in or benefit from the University's education programs or activities (hostile environment).

Information regarding issues of sex-based harassment specifically, including definitions and information about the University's procedures for reporting and processing such incidents, can be found in University's Title IX Policy. After an initial assessment of the facts, the Title IX Coordinator will determine if the alleged Prohibited Conduct falls under the guidelines of Title IX. If not, the matter will be subject to this Policy.

University Community means all faculty, staff, employees, students, trustees, vendors, contract workers, business invitees, applicants for admission or employment, volunteers, visitors and guests at all times and places in any connection with this institution, whether on or off campus.

## IV. Policy

### A. Prohibited Conduct

This Policy prohibits Acts of Bias, Discrimination, Harassment (including but not limited to Gender-based and Sex-based Harassment), and Retaliation (collectively, "Prohibited Conduct").

### B. Reporting Prohibited Conduct

The University encourages all members of the University Community to promptly report any behavior they believe may constitute discrimination and/or harassment. Many incidents of discrimination and/or harassment can be effectively addressed with a minimum of disruption to the affected parties if promptly reported. Failure to report perceived discrimination and/or harassment on a timely basis may make it difficult for the University to take effective corrective action.

Reports of Prohibited Conduct should be made to the Responsible Officer:

Kathleen Smith  
Equal Opportunity Officer  
The University of Tulsa  
McClure Hall, Rm. 104

800 S Tucker Dr.

Tulsa, OK 74104

918-631-2321

kathleen-smith@utulsa.edu

#### 1. *Conduct that Poses an Ongoing Safety Threat or Constitutes a Crime*

Any person who wishes to make a complaint of discrimination or harassment that also constitutes a crime—including hate crimes, assault, or property offences—is encouraged to make a complaint with the Campus Security (918-631-5555) or local law enforcement (Emergencies: 911; Non-emergencies: 918-596-9222). If requested, the University will assist the complainant in notifying the appropriate law enforcement authorities.

In the event of an emergency, or there is ongoing danger to person or property, please contact 911 and Campus Security (918-631-5555). A victim may decline to notify such authorities.

## *2. Content of the Complaint*

So that the University has sufficient information to investigate a complaint, the complaint should include: (1) the date(s) and time(s) of the alleged conduct; (2) the names of all person(s) involved in the alleged conduct, including possible witnesses; (3) all details outlining what happened; and (4) contact information for the complainant so that the University may follow up appropriately.

## *3. Timing of the Complaint*

The University encourages persons to make complaints of discrimination and harassment as soon as possible because late reporting may limit the University's ability to investigate and respond to the conduct complained of.

## *4. Anonymous Complaints*

While anonymous complaints will be accepted, the University may be limited in its ability to investigate or resolve anonymous complaints. If the anonymous complaint contains sufficient information regarding the conduct, the University will take reasonable steps to address the concerns in coordination with any relevant department or division.

In addition to reporting to the Responsible Officer, anonymous complaints may be submitted using the University's online [Ethics Point reporting system](#) or by calling the Ethics Point Hotline at 1-866-384-4277.

## *5. Bad-Faith Complaints*

While the University encourages all good-faith complaints of discrimination and harassment, the University has the responsibility to balance the rights of all parties. Therefore, if the University's investigation reveals that a complaint was knowingly false, the complaint will be dismissed, and the person who filed the knowingly false complaint may be subject to discipline.

## **C. Retaliation**

It is a violation of this policy to retaliate against any member of the University Community who reports or assists in making a complaint or who participates in the investigation of a complaint in any way. Persons who believe they have been retaliated against in violation of this policy should report such alleged retaliation to the Equal Opportunity Officer.

## **D. Investigation and Confidentiality**

All complaints of discrimination and harassment will be investigated in accordance with this policy, and the University will take disciplinary or other action where it deems appropriate. The University will take efforts to preserve an individual's privacy and protect the confidentiality of information when investigating and

resolving a complaint; however, the University cannot guarantee confidentiality to those who make complaints.

In the event a complainant requests confidentiality or asks that a complaint not be investigated, the University will take steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name not be disclosed to the alleged perpetrator, the University's ability to respond may be limited. **The University reserves the right to initiate an investigation and take action despite a complainant's request for confidentiality in limited circumstances involving a potential crime, serious or repeated harassment or where the alleged perpetrator may pose a continuing threat to the University Community.**

#### E. Free Expression and Academic Freedom

The University is committed to its long-standing traditions of academic freedom and free expression. The University is an institution whose members may express themselves, while protecting and respecting the rights of others to learn, to do research, and to carry out the essential functions of the University free from interference or obstruction. When addressing complaints of violations of this policy, the University will take all permissible actions to respond appropriately while respecting the rights of free expression and academic freedom. The offensiveness of a particular expression, course content, subject of academic inquiry, or research topic, as perceived by some, standing alone, may not be sufficient to constitute a violation of this policy.

Faculty members and students should be aware that conduct occurring in the context of educational instruction may exceed the protections of free expression and academic freedom if it meets the definition of Discrimination or Harassment and is not germane to academic subject matter, lacks a pedagogical purpose, advances the personal interest of a faculty member or student without relating to the learning process or legitimate academic objectives, causes material adverse action against a person, reveals confidential information about a person, is defamatory or libelous, threatens physical harm or imminent violence, and/or constitutes some other category of speech that is unprotected by the U.S. Constitution or other law.

## V. Procedures for Investigating and Resolving Complaints



#### A. Commencing the Investigation

When a complaint is made, the Equal Opportunity Officer and/or their designee ("Investigator") will commence an investigation of the complaint. The purpose of the investigation is to determine whether it is more likely than not that the alleged behavior occurred and, if so, whether it constitutes a violation of this

policy. Some complaints may involve a preliminary inquiry into whether the matter falls under this Policy or requires referral for treatment under a different policy.

In some circumstances, the investigation may commence even if the complainant requests that the matter not be pursued. In such a circumstance, the University will endeavor to investigate and respond to the matter in a manner that is informed by the complainant's articulated concerns.

### **B. The Content of the Investigation**

During the investigation, complainants will have the opportunity to describe their allegations and identify supporting witnesses or other evidence. The individual accused of wrongdoing (respondent) will have the opportunity to respond to the allegations and identify supporting witnesses or other evidence. The Investigator will review the evidence and, depending on the circumstances, may interview others with relevant knowledge, review other documentary materials, and take any other action they deem appropriate to gather and consider information relevant to the complaint. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information.

### **C. Interim Measures**

At any time during the investigation, the University may determine that interim remedies or protections for the involved parties or witnesses are appropriate. These interim remedies may include separating the parties, placing limitations on contact between the parties, suspension, or making alternative living, class-placement, or workplace arrangements. Supervisors, staff advisors, and other University employees may be notified of interim measures if their notification is necessary to ensure the interim measures are appropriately observed. Failure to comply with the terms of these interim remedies or protections may constitute a separate violation of this Policy.

### **D. Findings of the Investigation**

results of the investigation and, to the extent appropriate, any remedial action to be taken.

If it is determined that the terms of this Policy have been violated, the University will take steps designed to prevent reoccurrence of the offending conduct, including potential disciplinary action against the offending party.

The University recognizes that in some cases, despite an investigation, it may be impossible to determine whether the alleged violations of this policy have in fact occurred. In such cases, the University may take non-disciplinary action designed to reinforce the effectiveness of this policy and to prevent future violations.

Once the University has addressed concerns raised with respect to discrimination and/or harassment, it will assume that the problem is not continuing in nature unless it is informed otherwise. Members of the University Community who believe they have again been discriminated against and/or harassed in violation of this policy must report this reoccurrence immediately pursuant to this policy.

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### E. Appeal Rights of Parties

The University offers to both parties appeal rights from a determination regarding responsibility. Appeals must be grounded in one or more of the following rationales:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility was made has come to light that could affect the outcome of the matter;
- The investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual parties in particular, and that bias affected the outcome of the matter; and/or,

Appeals must be submitted in writing to the Responsible Officer or their designee within five (5) business days of the date the appealing party was notified of the outcome of the investigation. The Responsible Officer or their designee shall provide notice of the appeal to the non-appealing party, who has five (5) days to submit a written response to the appeal which addresses solely the ground(s) alleged for the appeal. The non-appealing party shall be limited to one and only one written response to the appeal.

Upon receipt of the non-appealing party's response to the appeal, the Responsible Officer or their designee will submit the appeal and the non-appealing party's response to the appeal officer, who shall not be the same individual who issued the Finding of Responsibility.

- The appeal officer for matters with staff respondents is the Chief Human Resources Officer or their designee.
- The appeal officer for matters with faculty and postdoctoral scholar/fellow respondents is the Vice Provost for Faculty Affairs or their designee.
- The appeal officer for matters with student respondents is the Dean of Students.
- The appeal officer for all other respondents is the Vice President of Risk Management.

The appeal officer's review will be based only on the written record and will not include meetings or discussions with the parties or personnel directly involved in the investigation. Therefore, the appealing party should include any supporting documents with their written appeal. The appeal officer may consult with the Responsible Officer regarding matters of procedure, as appropriate.

The appeal officer will issue a final written decision to both parties and the Responsible Officer describing the result of the appeal and the rationale for the result. The decision of the appeal officer is final.

### F. Disciplinary Action

Any employee who is determined, after the investigation and any appeal, to have engaged in discrimination and/or harassment in violation of this policy will be subject to discipline, up to and including termination of employment pursuant to the Progressive Discipline Policy. Discipline of a member of the resident faculty

will be initiated through the disciplinary procedures specified in Sections VII and VIII of the *Statement on Academic Freedom, Responsibility, and Tenure* (the “Blue Book”). Discipline of all other employees, including staff, will be imposed pursuant to the University’s Progressive Discipline Policy.

Any student will who is determined, after an investigation, to have engaged in discrimination and/or harassment in violation of this policy will be subject to discipline, up to and including expulsion. Discipline shall be imposed by the Dean of Students (or designee).

## VI. Miscellaneous

### A. Related Policies

- Disclosure of Wrongful Conduct and Protection from Retaliation Policy
- Pregnancy Non-Discrimination Policy
- Student Code of Conduct
- The Statement on Academic Freedom Responsibility and Tenure
- Title IX Policy
- Progressive Discipline Policy

### B. Approval

This Policy is approved by the undersigned and effective as of the date written below.

Approved:

[Title]

Date Effective:

### Revision Record

Date 	Version	Notes
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08/01/2023 

2

Policy enacted; Policy on Harassment rescinded

*This policy is not a contract. The University of Tulsa reserves the right to modify, revise, rescind or grant exceptions to this policy.*

## Attachments

## Approval Signatures

Step Description	Approver	Date
Legal	Cheryl Dixon: General Counsel	09/2023
VP	Matthew Warren: Chief Compliance Officer & Vice President for Risk	09/2023
	Kathleen Smith: Equal Opportunity Officer and Title IX Coordinator	09/2023

## Older Version Approval Signatures