



# California University of Pennsylvania

**POLICY STATEMENTS AND COMPLIANCE PROCEDURES  
ON EQUAL EDUCATION AND EMPLOYMENT  
OPPORTUNITY AND SOCIAL EQUITY**

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# California University of Pennsylvania

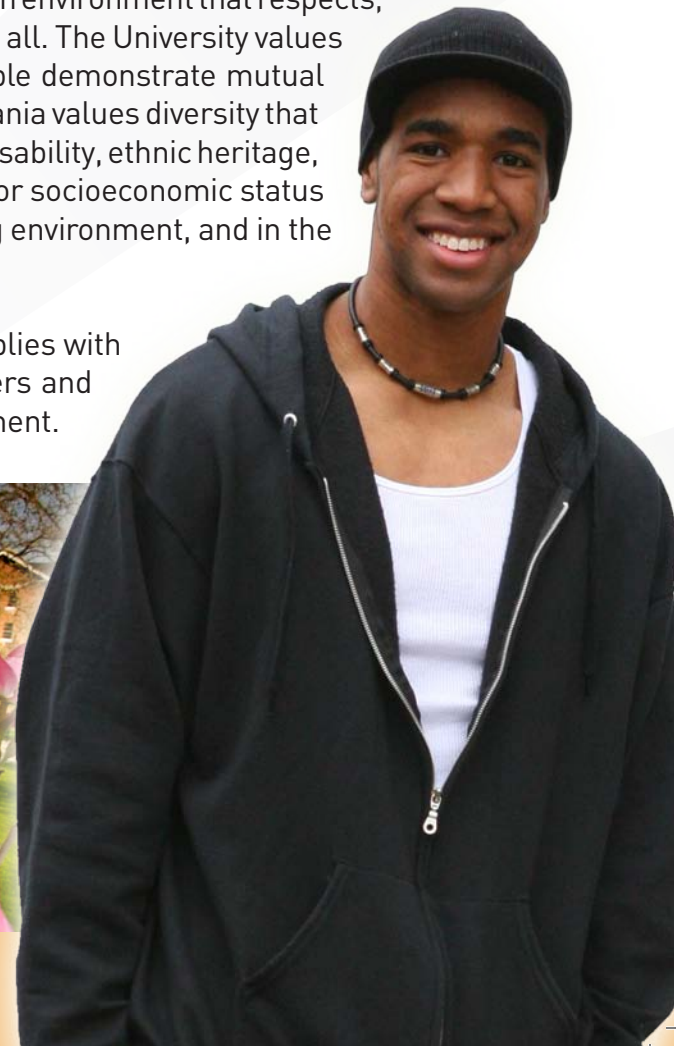
## POLICY STATEMENTS AND COMPLIANCE PROCEDURES ON EQUAL EDUCATION AND EMPLOYMENT OPPORTUNITY AND SOCIAL EQUITY

### 1. Purpose & Scope:

California University of Pennsylvania is an academic community dedicated to the ideals of justice, fairness and equal opportunity for all.

California University of Pennsylvania endeavors to provide an environment that respects, encourages, and promotes the talents and contributions of all. The University values a community with a shared sense of purpose where people demonstrate mutual respect and appreciation. California University of Pennsylvania values diversity that honors and includes all persons regardless of age, creed, disability, ethnic heritage, gender, gender identity, race, religion, sexual orientation, or socioeconomic status in academic and extracurricular endeavors, in the working environment, and in the daily life of the University community.

The University is an equal opportunity employer that complies with all applicable federal, state and local laws, statutes, orders and regulations prohibiting discrimination and sexual harassment.



Retaliation against an individual for reporting an unlawful act of discrimination or participating in an investigation is prohibited by the University, state and federal laws, including laws enforced by the Equal Employment Opportunity Commission, the Pennsylvania Human Relations Commission and the United States Department of Education's Office for Civil Rights.

The responsibility for enforcement of this policy is delegated by the President to the Provost, Vice Presidents, Deans, and the Special Assistant to the President for Equal Employment, Education and Opportunity.

### **Regulatory Compliance**

The University does not unlawfully discriminate and is responsible for compliance with laws and regulations which were enacted to protect the civil rights of all individuals:

- Executive Order 11246
- Rehabilitation Act of 1973
- Americans with Disabilities Act of 1990
- Vietnam Era Veterans Readjustment Assistance Act of 1974
- Title VI of the Civil Rights Act of 1964
- Title VII of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Pennsylvania Human Relations Act
- Pennsylvania Fair Education Opportunity Act and other federal, state and local laws

Employees and applicants receive protection from coercion, intimidation, interference or discrimination for filing a complaint or assisting in an investigation under the above statutes and executive order.

The external administration and enforcement of the applicable federal laws, rules and regulations are the responsibility of federal and state agencies, including but not necessarily limited to:

- U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP)
- Pennsylvania Human Relations Commission
- Equal Employment Opportunity Commission (EEOC)
- U.S. Department of Education, Office of Civil Rights



## Discipline

A finding of unlawful discrimination and harassment could constitute just cause for discipline of faculty, staff, employees or students. The degree of discipline would depend on the nature of the offense and could include discharge of an employee or expulsion of a student.

The persons accused of discrimination may not be disciplined until and unless they have been given sufficient information concerning the charges and a sufficient opportunity to tell their side of the story in order to satisfy any legally required elements of due process.

**Nothing in this policy or procedures used to enforce it shall in any way be applied to impinge upon the First Amendment rights of faculty, staff, employees or students nor shall it impair the rights of employees to grieve disciplinary action under any applicable collective bargaining agreement, or be taken to prohibit any other lawful and appropriate form of legal action.** Similarly, nothing in this policy or the procedures related to it should be taken to prohibit the University from issuing discipline to any student or employee, subject to the usual procedures by which such discipline is issued. It is understood that current collective bargaining agreements provide for discipline of faculty members only by the President. Discipline of other employees, and of students, will be issued pursuant to the usual procedures utilized by the University.



### 2. Definition(s):

- A. The following terms are defined in Section 8 under each respective policy:

*Discrimination (8.1)*

*Sexual Harassment (8.2)*

*Harassment (8.3)*

*Individual with a Disability (8.4)*

*Qualified Individual with a Disability (8.5)*

- B. *Complainant:* The person who is alleging the occurrence of discrimination.
- C. *Respondent:* The person whose actions are alleged to have violated the anti-discrimination policy.
- D. *Investigator:* The Special Assistant to the President for EEO and/or her designee.



### **3. Confidentiality and Due Process:**

During the complaint process California University of Pennsylvania will make every effort to ensure confidentiality and protect the due process rights of the Complainant(s) and the Respondent(s). Both parties shall be informed of the procedural steps taken during the course of the complaint procedures by the Investigator.

### **4. Retaliation Prohibited:**

Retaliation against any person who alleges harassment or who reports or assists California University of Pennsylvania in the investigation of a complaint under this policy may result in disciplinary action up to and including termination or expulsion by California University of Pennsylvania. Retaliation against any person who is the alleged victim of harassment is prohibited as well.

There will be no retaliation against those who report or assist California University of Pennsylvania in the investigation of a complaint. California University of Pennsylvania, however, may take disciplinary action against an individual who knowingly provides false information during the investigation of a complaint of harassment.

### **5. The Role of Advisors:**

If a Complainant or Respondent desires, he/she may be accompanied to an investigation by another California University of Pennsylvania employee who may advise and assist the Complainant /Respondent throughout the informal or formal resolution process. The advisor must be an individual from within the California University of Pennsylvania community. A Complainant/ Respondent and advisor may consult with each other, but the advisor may not speak for or on behalf of the Complainant/Respondent during the process. Legal Counsel for either party may not act in the capacity of an advisor.

## **6. Reporting Chain:**

All members of the California University of Pennsylvania community are accountable for their actions and responsible for adhering to the policies contained within this booklet. Reporting allegations of harassment, unlawful discrimination, sexual harassment and discrimination against individuals with disabilities should occur as follows:

**A. Reports from:** Staff Member/Employee of California University of Pennsylvania.

**Report to:** The Special Assistant to the President for EEE0.

**B. Reports from:** Faculty Member or Student of California University of Pennsylvania.

**Report to:** The Special Assistant to the President for EEE0.

**C. Reports from:** Staff Member/Employee of California University of Pennsylvania with allegations against the Special Assistant to the President for EEE0.

**Report to:** The President.

**D. Reports from:** Staff Members/Employee/Faculty Members or Students of California University of Pennsylvania with allegations against the President.

**Report to:** The Chancellor.

***All individuals are encouraged to report any information they have pertaining to harassment, unlawful discrimination, sexual harassment, and discrimination against people with disabilities so that the matter may be addressed in a timely manner.***

## 7. Complaint Procedures and Steps to Resolution for All Policies Listed Herein:

To insure prompt and effective intervention in campus disputes, the University institutes the following complaint procedures effective April 30, 2010. These procedures apply to all complaints related to equity and opportunity, harassment, sexual harassment and discrimination.

### REQUIREMENTS FOR FILING A COMPLAINT

#### Informal Complaints (Mediation)

The purpose of informal complaint resolution is to encourage the reporting of complaints concerning harassment and to facilitate a resolution of the complaint without the need of a formal investigation as outlined below under Formal Complaints.

The informal complaint procedure is as follows:

- 1) A preliminary determination is made that a violation of the policy may have occurred. This is not a substantiated determination but an assumption that if the allegations were assumed to be true, it would give rise to a violation of the policy.
- 2) A meeting is arranged to inform the Respondent of the formal and informal complaint procedures. The Respondent is provided a copy of this policy booklet with emphasis given to the section that applies to the allegation(s), as well as advised of the behaviors that are alleged. The Respondent can elect whether to participate in resolving the matter informally through mediation or through a formal investigation.
- 3) With the approval of the parties, the Special Assistant to the President or her designee shall act as the Mediator in an effort to resolve the matter. In the event that the parties do not desire to utilize the Special Assistant to



the President, or if the complaint includes an allegation made pursuant to Section 6 (C) or (D), a potential conflict, or an appearance of conflict exists with the Special Assistant to the President, her designee or the Section 504 Compliance Officer, a Mediator shall be selected through the mediation program of the Office of General Counsel (OGC).

**4)** The Mediator's role in the mediation is to facilitate communication between the parties regarding their perceptions and allegations in an attempt to arrive at an action plan to address the issue. Mediation can occur with the parties jointly present in the room or they can be separate in a caucus-style arrangement. At any stage in the mediation process, either party has the right to withdraw from the mediation process and proceed to a formal investigation.

**5)** At the successful conclusion of mediation, the Mediator shall send a written report of the outcome and the understanding between the parties. In the event that an OGC Mediator is utilized, the OGC Mediator shall send the report with a copy to the Special Assistant to the President for EEEO.

**6)** If the Complainant or Respondent is not satisfied with the resolution under the informal procedure, the Complainant may file a formal complaint as outlined below.

**7)** In the event that the allegations are severe or pervasive and California University of Pennsylvania determines that mediation is not in the best interest of California University of Pennsylvania, the President or his designee may choose to pursue formal resolution of an alleged violation.

**8)** All written records associated with the resolution of a problem during informal proceedings will be maintained in accordance with California University of Pennsylvania's Record Retention Policy. No written records will be placed in any official personnel file.

### **Formal Complaints**

Unsigned written or anonymous complaints will be addressed and investigated as warranted; however, complaints of this nature may have limited merit because of the inability to adequately investigate them. Therefore, individuals who have complaints of harassment are encouraged to come forward.

Complaints shall be reported as outlined in Section 6 above.

**1) Investigatory Review:** Investigatory reviews into allegations of discrimination or harassment against employees will be conducted by the Special Assistant to the President for EEEO in most instances.

**2) Time Frames of Investigation:** The time frames in which to commence and conduct an

investigatory review should be adhered to unless a reasonable delay occurs. The Investigator shall commence an investigatory review of the allegations within five (5) working days of receiving the complaint. A full report shall be provided to the President or his/her designee within one hundred twenty (120) days of a filed complaint absent extenuating circumstances.

#### **A) Formal Investigation Process**

When informal resolution is not chosen or is unsatisfactory, Complainants are to use the following formal mechanisms. Note that another California University employee, union representative or another California University student who may advise and assist an individual throughout the formal resolution process may accompany any person involved in such formal discussions to the Office of Social Equity. The foregoing does not apply to any employee of California University who is not a member of a collective bargaining unit and who is the subject of a sexual harassment investigation as described herein.

1. The Investigator will inform the Respondent of the allegation(s). Copies of the California University of Pennsylvania Policy Statement and Compliance Procedures and written confirmation of the complaint are provided to the Respondent with emphasis on the section pertaining to the alleged behaviors. If appropriate, the Respondent is entitled to seek advice from a union representative.
2. The Respondent is provided an opportunity to meet with the Investigator to review the formal complaint and the respective policy and investigative procedures. At this meeting, the Respondent may be accompanied by a union representative.
3. Any written records associated with a formal investigation will be maintained in the Office of Social Equity.
4. **Harassment by a Faculty Member:** Formal complaints against a faculty member, graduate assistant, or any other person assisting with the instructional program brought by a student, staff member, or another faculty member should be brought to the attention of the appropriate Dean or Vice President who shall directly contact the Special Assistant to the President for EEO. Reports also may be directly made to the Special Assistant to the President for EEO.

a) The Investigator's report is submitted to the appropriate Vice President responsible for the area in question who will determine whether or not to recommend a pre-disciplinary conference to the President. The role of the Investigator is not to impose discipline but to provide a complete investigation upon which the need for discipline is considered.

b) The President, after reviewing the recommendation from the Vice President may arrange a pre-disciplinary conference following California University of Pennsylvania pre-disciplinary procedures and ensuring that the Respondent has the opportunity for representation.

**5. Harassment by a Staff Member:** Formal complaints against a staff member brought by a student, faculty member or another staff member should be brought to the Director of the staff member or the appropriate Vice President, who will directly contact the Special Assistant to the President for EEEEO. Reports also may be directly made to the Special Assistant to the President for EEEEO.

a) The Investigator's report is submitted to the appropriate Vice President responsible for the area in question who will determine whether a pre-disciplinary hearing is warranted. The role of the Investigator is not to impose discipline but to provide a complete investigation upon which the need for discipline may be considered.

**6. Harassment by Students:** Formal complaints against a student brought by a staff member, a faculty member, or another student, should be brought to the Assistant Vice President for Student Affairs, the Vice President for Student Affairs or directly to the Special Assistant to the President for EEEEO. The procedures for handling such matters involving students and/or student organizations are detailed in the Student Code of Conduct found in the California University Student Handbook.

**7. Harassment by Outside Vendors:** Complaints of harassment by outside vendors and/or subcontractors should be reported to the Vice President for Finance and Administration, or the Director of Physical Plant who shall directly report such incidences to the Special Assistant to the President for EEEEO. Complaints can also be made directly to the Special Assistant to the President for EEEEO.

a) The Investigator's report is submitted to the Vice President of Administration and Finance who will determine whether corrective action should be taken.

**8. Harassment by Visitors:** Complaints against visitors brought by a staff member, faculty member, or student shall be filed with the Special Assistant to the President for EEEEO and brought to the attention of the appropriate Vice President.

a) The Investigator's report is submitted to the appropriate Vice President who will determine whether corrective action should be taken.

If any office or person other than the Special Assistant to the President for EEEEO receives a complaint, this person shall notify the Special Assistant to the President for EEEEO. Absent a formal request, no other person other than those specifically designated may conduct any investigation. To the extent possible, the complaint shall remain confidential.

## **B) Appeal Process**

1. Disciplined employees have the right to appeal a determination of a policy violation directly to the President within five (5) days of receipt of a determination. Any appeal is for the purpose of reviewing the record to determine the appropriateness of the decision and not for purposes of presenting evidence not previously provided. An appeal decision will be issued within ten (10) days of filing with the President.
2. Employees may elect to grieve the disciplinary action pursuant to relevant California University of Pennsylvania policies or the appropriate collective bargaining agreement.
3. A copy of the Complaint Intake Form is in the back of this policy.

## **C) Notification of Report Completion**

At the conclusion of the investigatory review, the parties in a complaint shall receive notification that a report has been concluded and filed with the Vice President responsible for the area in which the Complainant or Respondent works.

All written records associated with the resolution of a complaint pertaining to the formal investigation will be maintained in accordance with California University of Pennsylvania's Record Retention Policy. When discipline occurs, written records will be placed in the employee's official personnel file in accordance with the relevant California University of Pennsylvania policies and applicable collective bargaining agreements.

## **D) False Statements Prohibited**

Any individual who is determined to have provided false information in filing a discrimination report/complaint or during the investigation of such a report/complaint may be subject to disciplinary or corrective action.

## **E) Counseling**

Counseling is available to any employee or student who believes he/she has been subjected to any form of harassment. For employees, counseling services may be obtained through the State Employees Assistance Program (SEAP) at 800-692-7459. Students may obtain counseling services through the Counseling Center at Cal U by calling 724-938-4056.

## **F) Training**

Employee training as to the contents of this policy shall occur yearly. Additionally, California University of Pennsylvania employees are required to participate in this training within thirty (30) days of hiring and at least every year thereafter.

A current copy of this policy will be posted on the California University of Pennsylvania webpage. Hard copies of this policy may be obtained from the Special Assistant to the President for EEO and the Director of Human Resources.

## **G) Additional Rights**

Individuals are encouraged to use these complaint procedures but are not required to do so and may choose to pursue other civil and legal options. Individuals may choose to pursue the complaint through their appropriate collective bargaining agreement grievance procedures. Furthermore, Complainants may choose to make use of the Equal Employment Opportunity Commission, the Pennsylvania Human Relations Commission and the Office of Civil Rights.

## **8. Policies:**

For convenience, all policies relating to Social Equity issues are included in this document under their individual policy numbers. The complaint reporting procedure applies equally to all allegations of discrimination, harassment and/or sexual harassment. This document of policy statements and compliance procedures will be distributed to all employees on an annual basis as part of an overall awareness initiative. Distribution to the student body will be made bi-annually utilizing the student email distribution list along with other student outreach initiatives.

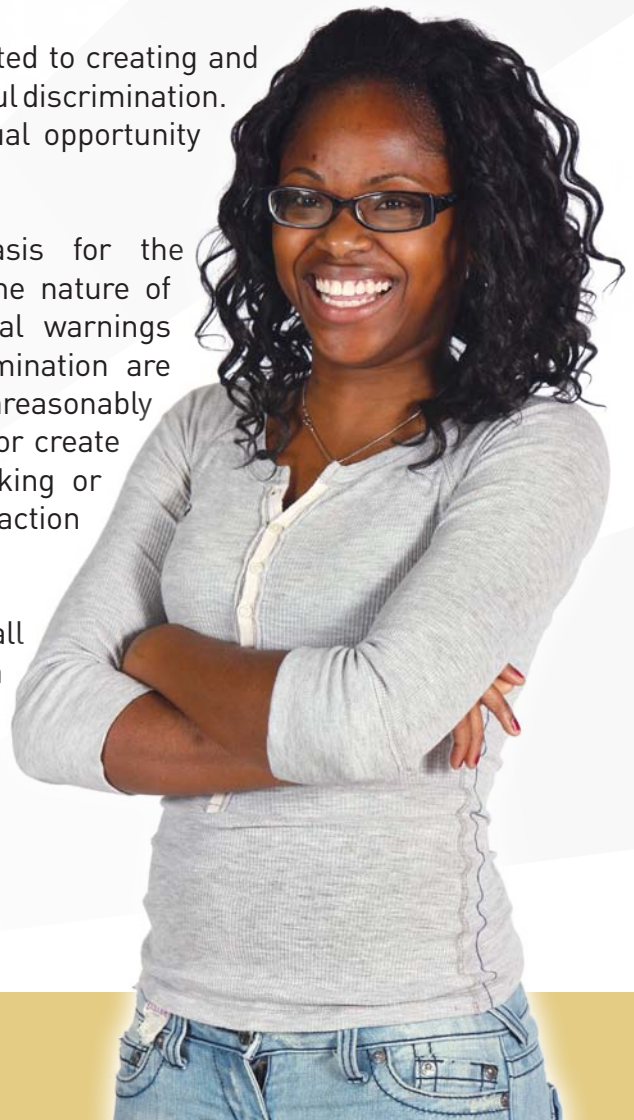
### **8.1 California University of Pennsylvania's Anti-Discrimination Policy 2010-700**

#### **I. Introduction**

California University of Pennsylvania is committed to creating and maintaining an environment that is free of unlawful discrimination. California University of Pennsylvania is an equal opportunity employer.

Unlawful discrimination is a sufficient basis for the imposition of discipline and, depending on the nature of the offense, discipline will range from verbal warnings to termination. Further, when acts of discrimination are sufficiently pervasive or so severe that they unreasonably interfere with an individual's performance and/or create an intimidating, hostile, and/or offensive working or learning environment, substantial disciplinary action may be warranted.

The prohibition of discrimination applies to all current California University of Pennsylvania employees and applicants as well as individuals who have a contractual relationship to California University of Pennsylvania (CAL U), including, but not limited to, vendors and contractors.



## II. Definitions

- A. Unlawful Discrimination:** An adverse employment action or decision that is based on or motivated by an individual's race, color, religion, ethnicity, national origin, gender, age, disability, or veteran status.
- B. Complainant:** The person who is alleging the occurrence of discrimination.
- C. Respondent:** The person whose actions are alleged to have violated the anti-discrimination policy.
- D. Investigator:** The Special Assistant to the President for EEO and/or her designee.

## III. Prohibition of Unlawful Discrimination

California University of Pennsylvania does not discriminate or permit discrimination by any member of its community against any individual on the basis of race, color, religion, ethnicity, national origin, gender, age, disability, or veteran status in matters of employment.

Harassing behavior that is based on any of these protected characteristics is discriminatory. This includes harassing conduct affecting tangible job benefits, interfering unreasonably with an individual's work performance, or creating what a reasonable person would sense is an intimidating, hostile, or offensive environment.

While California University of Pennsylvania is committed to the principles of free inquiry and free expressions, discrimination and harassment identified in this policy are neither legally protected expression nor the proper exercise of academic freedom.

### 8.2 California University of Pennsylvania's Sexual Harassment Policy 2010-701

#### I. Introduction

Sexual harassment is reprehensible conduct that will not be tolerated at California University of Pennsylvania.

The following describes the University's policy regarding the sexual harassment of students, faculty, staff and managers. The University is committed to providing a harassment-free atmosphere for all members of the University community. In addition, in the hope that it will reduce or eliminate sexual harassment, the University will make an effort to educate students, faculty, staff and managers about the issue. This will take the form of the dissemination of this policy and may include periodic workshops and/or other means of communication.

#### II. Policy

Sexual harassment violates basic human rights as well as state and federal law. Furthermore, retaliation against the accuser, witnesses or other persons involved is prohibited. The University also recognizes that accusations of sexual harassment are grievous and have serious consequences, and the University will take the necessary precautions to protect students, faculty, staff and managers from false accusations.

***Any employee of the University who witnesses or is told of an incident of alleged sexual harassment is encouraged to report it to the Special Assistant to the President for EEO as soon as possible.***

Prevention is the best tool for elimination of sexual harassment. This University will take the steps necessary to prevent sexual harassment from occurring by regularly and affirmatively raising the subject, conducting training, expressing strong disapproval, taking appropriate sanctions and informing employees and students of their rights.

### **III. Definition of Sexual Harassment**

Sexual harassment in the workplace is prohibited under Title VII of the Civil Rights Act of 1964. Guidelines were issued by the Equal Employment Opportunity Commission in 1980, incorporating sexual harassment in the workplace as a violation of Title VII.

California University's **definition of sexual harassment** is consistent with the guidelines of the Equal Employment Opportunity Commission's current definition of sexual harassment. That definition includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature. Examples include:

- Submission to such conduct is either implicitly or explicitly made a term or condition of an individual's employment or education.
- Submission to or rejection of such conduct is used as the basis for employment or educational decisions affecting that individual.
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or education experience or creating an intimidating, hostile, or offensive work or educational environment.

Sexual harassment may take many forms, including deliberate or careless use of offensive or demeaning terms connected with a person's gender or sexual orientation; sexually suggestive comments, compliments, jokes, innuendos, or questions; offensive displays; sexual gestures or unwanted touching; pressure for dates or sexual favors; attempted or actual assault; rape; threats or implications that refusal of sexual favors, or unwillingness to accept or tolerate offensive sexual conduct or communication, might affect a person's academic progress, personal safety or future employment.

The University procedures are not meant to replace other procedures established by state and federal laws, or the collective bargaining agreements. Individuals have the right to choose this forum or any other forum available to them.

To insure prompt and effective intervention in campus disputes, the University has instituted a comprehensive internal complaint procedure. The format for investigating and resolving complaints is the same for all types of discrimination charges and can be found under *Complaint Procedure for Equal Employment and Education Opportunity Cases* (Section H).

#### IV. Related Unprofessional Conduct

A California University of Pennsylvania employee with professional responsibility or supervision of another who has real and potential power and authority over that individual in a variety of roles including, but not limited to, supervisor, mentor, committee member, etc. shall not abuse that power. Absent contradictory evidence, an amorous or sexual relationship between individuals where one possesses or appears to possess authority or power over another is presumed to be exploitative and shall constitute unprofessional conduct. The consensual nature of such a relationship does not necessarily constitute a defense to a charge of sexual harassment or related unprofessional conduct especially when the indirect result of the relationship creates a hostile workplace environment.

Therefore, any employee in a supervisory role who enters into an amorous or sexual relationship with another employee enters into that relationship with risk. These persons will be subject to scrutiny if a complaint of sexual harassment is leveled against the “supervisory person” by the “subordinate person” or if a third party brings a complaint. If employees choose to enter into a consensual relationship and one party has supervisory responsibilities over the other, it is the responsibility of the senior person to make his/her supervisor aware of the relationship and relinquish supervisory responsibilities for the other party when these responsibilities pertain to pay, advancement and opportunity, whether educational or employment related.

Because the relationship between a teacher and student is central to the academic mission of the University, it is essential to establish the expectation that the standard of conduct in that relationship goes beyond the proscription against sexual harassment as defined in the University policy. An amorous or sexual relationship may interfere with the student-teacher relationship and lead to the appearance of discrimination against another student in the class which may violate standards of conduct expected by the University. Amorous or sexual relationships should not be allowed to interfere with the academic integrity of the student-teacher relationship.

The University deems sexual relations between a faculty member and a current student of that faculty member as inappropriate and unethical. This category includes relations between a graduate student and an undergraduate when the graduate student has some supervisory academic responsibility for the undergraduate. In addition, this includes amorous or sexual relationships between a student and an administrator, coach, advisor, program director, counselor, or residential staff member who has supervisory responsibility for that student.

It is the responsibility of the Provost, Vice Presidents, Deans, Department Chairpersons and others to respond to allegations of inappropriate and unethical behavior brought to their attention.



### 8.3. *California University of Pennsylvania's Anti-Harassment Policy 2010-702*

#### I. Introduction

California University of Pennsylvania is committed to creating and maintaining an environment that is free of unlawful harassment. The free and open exchange of ideas is fundamental to California University of Pennsylvania's purpose. It is not California University of Pennsylvania's intent in promulgating this policy to inhibit free speech or the free communication of ideas by members of the academic community.

California University of Pennsylvania is committed to maintaining a working environment that is free from all forms of unlawful harassment. Accordingly, acts of harassment based on an individual's gender, race, ethnicity, national origin, age, disability, religion, or veteran status is prohibited. Each member of California University of Pennsylvania is responsible for fostering civility.

Harassment as a result of belonging to a protected class is a violation of both Federal and Commonwealth law, and California University of Pennsylvania will act in accordance with those laws. California University of Pennsylvania will not knowingly tolerate substantiated incidences of harassment of this nature.

It is the University's position that acts of unlawful harassment that adversely impact employment are a sufficient basis for the imposition of discipline and, depending on the nature of the offense; discipline could range from verbal warnings to termination. When acts of harassment are sufficiently pervasive or so severe that they unreasonably interfere with an individual's performance and/or create an intimidating, hostile, and/or offensive working or learning environment, substantial disciplinary action may be warranted.

The prohibition of harassment applies to all current California University of Pennsylvania employees and applicants as well as individuals who have a contractual relationship with the University including, but not limited to, vendors and contractors.

#### II. Definitions

**A. Harassment** is defined as any type of behavior based on gender, race, ethnicity, national origin, age, disability, religion, or veteran status that is so severe or pervasive that it interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment. Harassment when directed at an individual because of his/her gender, race, ethnicity, national origin, age, disability, religion, or veteran status, may include, but is not limited to: unwanted physical contact; use of epithets, inappropriate jokes, comments or innuendos; obscene or harassing telephone calls, e-mails, letters, notes or other forms of communication; and, any conduct that may create a hostile working environment.

**B. Complainant:** The person who is alleging the occurrence of harassment.

**C. Respondent:** The person whose actions are alleged to have violated the anti-harassment policy.

### III. Prohibition of Unlawful Harassment

California University of Pennsylvania does not tolerate unlawful harassment by any member of its community against any individual on the basis of race, color, religion, ethnicity, national origin, gender, age, disability, or veteran status in matters of employment. Harassment, whether verbal, physical, or visual, that is based on any of these characteristics is discriminatory. This includes harassing conduct affecting tangible job benefits, interfering unreasonably with an individual's work performance, or creating what a reasonable person would sense is an intimidating, hostile, or offensive environment.

While California University of Pennsylvania is committed to the principles of free inquiry and free expression, harassment identified in this policy is neither legally protected expression nor the proper exercise of academic freedom.



#### **8.4. California University of Pennsylvania's Policy on Accommodation of Current or Prospective Employees and Students with Disabilities 2010-703**

##### **I. Introduction**

California University of Pennsylvania is committed to creating and maintaining an environment that is free of discrimination toward those qualified individuals with disabilities under the Americans with Disabilities Act (ADA). California University of Pennsylvania is an equal opportunity, affirmative action employer.

Unlawful discrimination against qualified individuals with disabilities is a violation of both Federal and Commonwealth law and the University will act in accordance with those laws. California University of Pennsylvania will not knowingly tolerate substantiated incidences of disability discrimination.

It is the University's position that acts of unlawful discrimination that adversely impact employment are a sufficient basis for the imposition of discipline and, depending on the nature of the offense, discipline could range from verbal warnings to termination. When acts of discrimination are sufficiently pervasive that they unreasonably interfere with an individual's performance and/or create an intimidating, hostile, and/or offensive working or learning environment, substantial disciplinary action is warranted.

The prohibition of discrimination against qualified individuals with disabilities applies to all current California University of Pennsylvania employees and applicants for employment.

##### **II. Definitions**

- A. A disabled individual** is defined as an individual who meets one of the following criteria:
1. Has a physical or mental impairment that limits one or more major life activities (examples are walking, speaking, seeing, hearing, and performing manual tasks);
  2. Has a record of such impairment; or
  3. Is regarded as having such impairment.
- B. A qualified person with a disability** is an individual with disability who meets the necessary skill, work experience, education, training, licensing or certification, or other job-related requirements of a position.
- C. Complainant:** The person who is alleging the occurrence of disability discrimination.

**D. Respondent:** The person whose actions are alleged to have violated this policy.

### **III. Prohibition of Unlawful Discrimination against a Qualified Person with a Disability**

California University of Pennsylvania is committed to ensuring equal employment opportunities for qualified individuals with disabilities. The University will provide reasonable accommodations to employees and applicants for university positions who are protected by the ADA by making changes in the work environment or by changing certain practices and procedures-as long as these changes do not pose an undue hardship on the University or alter the essential functions of the job.

Employees, regardless of whether they are receiving an accommodation, must maintain institutional standards of performance, attendance, and conduct as specified by their department.

Vice-Presidents, Deans and California University of Pennsylvania supervisors are obligated to report any known allegations of disability discrimination.

### **IV. Procedure to Request an Accommodation under the ADA for Employees**

Employees requesting an accommodation under the ADA should follow the following procedures:

- 1) To receive an accommodation under ADA, employees must file a request with the Director of Human Resources for California University of Pennsylvania. During the initial meeting with the Director of Human Resources, two things will be accomplished:
  - a. The Director will determine what documentation is needed from a licensed professional to support the employee's request for accommodation.
  - b. The responsibilities of the University and the employee will be clarified.
- 2) After reviewing the documentation and the facts of each request, the Director will determine if the employee is eligible for accommodations under the ADA.





- 3) The Director will review the marginal and essential functions of the job, the functional limitations of the disability, and the reasonableness of an accommodation.
- 4) The Director will then facilitate a discussion with the employee's supervisor and the employee to determine what accommodations may be reasonable.
- 5) The Director may seek advice from third-party experts when necessary.
- 6) It is the responsibility of the Director of Human Resources to determine the reasonableness of an accommodation in a particular case after reviewing all the facts.
- 7) The Director will communicate both the process for providing the accommodation, verbally and in writing, to the employee and the department. Supervisors will be informed of the accommodation.
- 8) The employee is responsible for contacting the Director of Human Resources if reasonable accommodations are not implemented in an effective and timely manner or if the accommodations are not working. The Director will work with the employee and the employee's supervisor to resolve disagreements regarding recommended accommodations.

Employees or applicants for employment who are seeking positions with the University who require an accommodation to participate in the hiring process should follow the following procedures:

- 1) A person with a disability, whether an employee or applicant, who needs an accommodation to participate in a selection process (such as a test or an interview) for a California University of Pennsylvania position must contact the Director of Human Resources to request an accommodation.
- 2) The request for accommodation must come in a timely manner to allow the Director or his designee to respond to the request.
- 3) The request for accommodation will be evaluated and the employee/applicant will provide requested documentation and/or additional information in order to assist with that request.

## **V. Procedure to Request an Accommodation under the ADA for Students**

It is the University's plan to fully comply with the Americans with Disabilities Act. In so doing, the University does not discriminate against students with disabilities in admissions, student programs, activities and services.

Students may file complaints or concerns about Section 504/ADA with the University's 504/ADA Compliance Officer in the Center for Student Affairs. The compliance officer acts as students' advocate and will be willing to make inquiries on behalf of students. These procedures are as follows:

- Schedule an appointment with the compliance officer by calling 724-938-4056.
- Complaints should be in writing and describe the concern about non-compliance.
- The compliance officer will investigate the complaint and schedule a meeting to review results and resolve the complaint in a timely manner.

**Office of Social Equity Contact Information**

Dr. Lisa M. McBride  
Special Assistant to the President for EEO/  
University Ombudsperson  
mcbride@calu.edu

Ms. Gena Sproul  
Assistant Director of Social Equity  
sproul@calu.edu

Alisha Carter  
Office Staff  
carter\_a@calu.edu

California University of Pennsylvania  
Office of Social Equity, South Hall, Room 112  
250 University Avenue, California, PA 15419  
Phone: 724-938-4014 Fax: 724-938-1672

A copy of the discrimination complaint form is shown on the attached page.

**Effective date:**

**April 30, 2010**

**by: President Angelo Armenti, Jr.**





**COMPLAINT INTAKE FORM**

**Background**

Date: \_\_\_\_\_ Case #: \_\_\_\_\_

Name of Complainant: \_\_\_\_\_

Office Location: \_\_\_\_\_

Home Address: \_\_\_\_\_

\_\_\_\_\_

Work Extension: \_\_\_\_\_ Home Phone: \_\_\_\_\_

e-mail: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Position: \_\_\_\_\_

Supervisor or Advisor (if student): \_\_\_\_\_

Bargaining Unit (if employee): \_\_\_\_\_

**Allegations**

Respondent: \_\_\_\_\_

Respondent's Position: \_\_\_\_\_

Respondent's Supervisor: \_\_\_\_\_

**Explain the nature of your complaint:** (attach additional pages if necessary)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**When did the event(s) occur:** \_\_\_\_\_

\_\_\_\_\_

**Where did the event(s) occur:** \_\_\_\_\_

\_\_\_\_\_

**Did anyone witness these events, and if so, what are their names, titles and a summary of what you believed they witnessed:**

Name:	Title:	Position:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Are there any documents in your possession related to the allegations of the complaint?:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Supplemental Information:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**







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