



California Health Sciences University

CHSU UNLAWFUL DISCRIMINATION, HARASSMENT, RETALIATION, AND SEXUAL VIOLENCE

I. POLICY STATEMENT

- A. CHSU is committed to creating an inclusive environment, where all individuals can achieve their academic and professional aspirations free from sexual violence, unlawful discrimination, harassment, or related retaliation. The purpose of this policy is to explain the prohibited conduct related to sexual violence, unlawful discrimination, harassment and retaliation. The purpose of this policy is also to outline the process by which CHSU processes complaints regarding sexual violence, unlawful discrimination, harassment or retaliation.
- B. All members of the CHSU community, including CHSU employees, students, and third party contractors and vendors are governed by this policy. CHSU does not tolerate harassment, discrimination or retaliation against job applicants, applicants for admission to CHSU, current students, contractors or vendors (including employees of contractors or vendors), supervisors, those in management, or any third party who enters onto CHSU facilities.
- C. This policy applies to prohibited conduct alleged to have occurred on CHSU property or in connection with CHSU activities, programs, or events. In addition, CHSU may apply this policy to conduct that occurs online or off-campus where the conduct: (i) affects the CHSU learning or working environment; or (ii) has a continuing adverse effect on campus.

II. CONDUCT PROHIBITED BY THIS POLICY

- A. This policy prohibits any form of harassment or discrimination on the basis of race; color, national origin (including possessing a driver's license issued under Vehicle Code § 12801.9), or ancestry; gender/sex, gender identity, transgender status, sex stereotyping or gender expression; age; physical or mental disability, perceived disability or perceived potential disability; pregnancy or perceived pregnancy, childbirth, breastfeeding or medical conditions related to pregnancy, childbirth or breastfeeding; religion (including religious dress and grooming practices) or creed; marital status; registered domestic partner status; medical condition (including HIV and AIDS); citizenship; military and veteran status; sexual orientation; genetic characteristics; genetic information (including information from the employee's genetic tests, family members' genetic tests, and the manifestation of a disease or disorder in the employee's family member); political affiliation; as well as any other classifications protected by federal, state, or local laws and ordinances is a violation of this policy and will be treated as a disciplinary matter.



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- B. CHSU policy also prohibits harassment or discrimination based on the perception that a person has any of these characteristics or is associated with a person who has, or is perceived to have any of these characteristics. CHSU prohibits any and all retaliation against any person covered by this policy for submitting a report of unlawful harassment or discrimination or for cooperating in any such investigation. CHSU has does not tolerate harassment, discrimination or retaliation and is committed to an environment free of it.
- C. Additionally, it is a violation of this policy to knowingly submit a complaint for discrimination, harassment, retaliation or sexual violence based on false allegations or to knowingly provide false information in connection with an investigation of a complaint processed under this policy.

III. GENETIC NON-DISCRIMINATION ACT (“GINA”)

- A. CHSU will not request that employees disclose genetic information with respect to their employment. However, in responding to CHSU’s request for medical certification for a leave of absence or an accommodation, an employee may inadvertently provide genetic information about themselves. With this in mind, CHSU provides employees with the following information:
- B. The Genetic Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting, or requiring, genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, CHSU requests that employees not provide any genetic information when responding to CHSU requests for medical information. “Genetic information,” as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

IV. ACADEMIC FREEDOM AND FREEDOM OF SPEECH PROTECTIONS

- A. CHSU recognizes and promotes its commitment to academic freedom and freedom of speech, as described in the Academic Freedom and Academic Dishonesty policy, and other applicable CHSU policies. The faculty and other academic appointees, staff, and students of CHSU enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution and Article I, Section I of the California Constitution. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws.



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V. RESPONSIBILITIES OF CHSU MANAGERS AND SUPERVISORS

- A. Employees who are managers and supervisors of CHSU may create liability (against CHSU, themselves, or both) for acts of discriminatory and harassing conduct occurring in the workplace, if the managers and supervisors know or should have known of the conduct, unless they can show that they took timely and appropriate corrective action. Ignorance of discriminatory activity is not an acceptable defense for inaction of a manager or supervisor if, through reasonable care, they should have been aware of the conduct.
- B. Managers and supervisors may create liability for discriminatory or harassing acts by non-employees where the managers and supervisors know or should have known of the conduct and fail to take timely and appropriate corrective action. In reviewing these cases, the extent of the managers' and supervisors' control, and any other legal responsibility which they may have with respect to the conduct of such non-employees, will be taken into consideration.
- C. Managers and supervisors who are aware of discriminatory conduct, even if the occurrence is not directly within their line of supervision or responsibility, have the obligation to immediately and concurrently report the harassment to the Office of Human Resources.
- D. Managers and supervisors who engage in harassing or retaliatory conduct may be held personally liable for such conduct. Managers, supervisors, or employees who engage in discrimination, harassment or retaliation will also face discipline, up to and including termination of employment.
- E. Managers and supervisors must:
 - 1. Provide a discrimination-free work environment, and take proactive steps to communicate to the subordinates that discrimination and harassment in the workplace will not be tolerated;
 - 2. Ensure that all of their subordinate employees are informed of the CHSU's policy against discrimination and harassment and its discrimination complaint process;
 - 3. Ensure that their subordinate employees are not discouraged from filing complaints (formal or informal) so that complaints may be investigated in a thorough, confidential manner;
 - 4. Set an example by their own behavior and let others know that they support the CHSU's policy and will take appropriate corrective action if discrimination occurs;
 - 5. Ensure that all employees attend training at least once every two years to make them aware of (1) conduct that is discriminatory, and (2) the consequences of such conduct;
 - 6. Immediately report all discrimination complaints to the Office of Human Resources even if the Complainant does not want you to proceed;



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7. Take all complaints seriously. Do not shrug off or minimize the complaint, or otherwise discourage employees from reporting such complaints;
 8. Monitor the workplace to identify subtle discriminatory conduct or behavior;
 9. Strictly follow directions and instructions from the Office of Human Resources, that office being charged with oversight and control over all complaints or incidents of discrimination. Do not initiate any investigation unless specifically directed to by the Office of Human Resources;
 10. Consult with the Office of Human Resources prior to taking any action in order to determine the appropriate action(s) to take;
 11. Promptly initiate appropriate action, as directed by the Office of Human Resources and executive level management, to remedy a discriminatory situation in a manner that will protect the Complainant, Respondent, and other employees, and to prevent further discriminatory acts or harassment from occurring; and
 12. Protect the employee(s) complaining of discrimination from any form of reprisal or retaliation.
- F. Managers and supervisors who become aware of discrimination, harassment, or retaliation and do not take immediate and appropriate corrective action will be held accountable. Failure to adhere to the above responsibilities will result in appropriate corrective and/or disciplinary action, up to and including termination. In addition, individuals may be sued in their personal capacity, and could be required to provide for the cost of their own defense.

VI. DEFINITIONS

- A. The following definitions are applicable to this policy:
1. Complainant: Any person who files a report of alleged conduct or retaliation prohibited by this policy.
 2. Respondent: A person alleged to have engaged in the prohibited conduct and about whom a report of such prohibited conduct is made.
 3. Discrimination Defined. Discrimination means excluding from participation, denying the benefits of, or otherwise subjecting an individual or group of individuals to different treatment based on a protected class. For example, unlawful discrimination may consist of a decision, policy or practice.



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4. **Harassment Defined.** Harassment is unwelcome verbal, visual or physical conduct creating an intimidating, offensive, or hostile work or educational environment that interferes with a person's work or educational performance, or creates an environment such that a reasonable person would find the conduct intimidating, hostile or offensive. Harassment can be verbal (including slurs, jokes, insults, epithets, gestures or teasing), graphic (including offensive posters, symbols, cartoons, drawings, computer displays, or e-mails) or physical conduct (including physically threatening another, blocking someone's way, etc.) that denigrates or shows hostility or aversion towards an individual because of any protected characteristic. Because it is difficult to define unlawful harassment, persons covered under this policy are expected to behave at all times in a professional and respectful manner.
 5. **Retaliation Defined.** Retaliation means any adverse treatment including threats, intimidation, adverse employment or educational actions, against a person based on their report of discrimination or harassment under this policy, or participation in the investigation, report, remedial or disciplinary process arising from this policy. Retaliation against someone for reporting or participating in an investigation and related processes constitutes prohibited conduct. Employees and students who violate this policy will be subject to appropriate disciplinary action, including termination or expulsion from CHSU.
 6. **Sexual Harassment Defined.** Sexual harassment is a form of gender discrimination, defined as unwelcome or unsolicited sexual advances, unwelcome requests for sexual favors, graphic or written statements, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature when:
 - a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational experience; or
 - b) Submission to or rejection of such conduct is used as a basis for employment, salary, or other benefits affecting a student; or
 - c) Such conduct interferes with an individual's work or educational experience and creates an intimidating, hostile, or offensive working or educational environment.
- B. Sexual harassment need not be motivated by sexual desire. Examples of conduct that violates this policy include:
1. Unwelcome sexual advances, flirtations, advances, leering, whistling, touching, pinching, assault, blocking normal movement
 2. Requests for sexual favors or demands for sexual favors in exchange for favorable treatment



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3. Obscene or vulgar gestures, posters, or comments
4. Sexual jokes or comments about a person's body, sexual prowess, or sexual deficiencies
5. Propositions, or suggestive or insulting comments of a sexual nature
6. Derogatory cartoons, posters, and drawings
7. Sexually-explicit e-mails or voicemails
8. Uninvited touching of a sexual nature
9. Unwelcome sexually-related comments
10. Conversation about one's own or someone else's sex life
11. Conduct or comments consistently targeted at only one gender, even if the content is not sexual
12. Teasing or other conduct directed toward a person because of the person's gender

C. Sexual Violence Definitions.

1. **Consent:** Consent is affirmative, conscious, voluntary and revocable. Consent to sexual activity requires of all persons involved an affirmative, conscious and voluntary agreement to engage in sexual activity. It is the responsibility of each person to ensure they have the affirmative consent of the other to engage in the sexual activity. Lack of protest, lack of resistance, or silence, do not alone constitute consent. Affirmative consent must be ongoing and can be revoked at any time during sexual activity. The existence of a dating relationship or past sexual relations between the persons involved should never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of consent to prior conduct).
2. **Sexual Assault—Penetration:** Without the consent of the Complainant, penetration, no matter how slight, of the vagina, anus, or mouth by a penis; or the vagina or anus by any body part or object.
3. **Sexual Assault—Contact:** Without the consent of the Complainant, touching, an intimate body part (genitals, anus, groin, breast, or buttocks), whether clothed or unclothed.
4. **Relationship Violence:**
 - a) **Dating Violence:** Conduct by a person who is or has been in a romantic or intimate relationship with the Complainant that intentionally, or recklessly, causes bodily injury to the Complainant or places the Complainant in reasonable fear of serious bodily injury.



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- b) Domestic Violence: Conduct by a current or former spouse or intimate partner of the Complainant shares a child in common, that intentionally, or recklessly causes bodily injury to the Complainant or another, or places the Complainant or another in reasonable fear of serious bodily injury.
- c) Stalking: Repeated conduct directed at a Complainant, which includes following, monitoring, observing, surveilling, threatening, communicating or interfering with property, of a sexual or romantic nature or motivation, that would cause a reasonable person to fear for their own safety, or the safety of others, or to suffer substantial emotional distress.

D. Other Prohibited Behaviors:

- 1. Invasion of sexual privacy:
 - a) Without a person's consent, watching or enabling others to watch that person's nudity or sexual acts in a place where that person has a reasonable expectation of privacy; or
 - b) Using depictions of nudity or sexual activity to extort something of value from a person.
- 2. Sexual intercourse with a person under the age of 18.
- 3. Exposing ones genitals in a public place for the purpose of sexual gratification.
- 4. Failing to comply with the terms of a no-contact order, a suspension of any length, or any order of exclusion issued under this Policy.

VII. REPORTING PROCESS AND PROCEDURES FOR COMPLAINTS OF UNLAWFUL DISCRIMINATION, HARASSMENT, RETALIATION, AND SEXUAL VIOLENCE

- A. The below procedures are intended to allow CHSU to respond to complaints of alleged discrimination, harassment, retaliation or sexual violence. CHSU encourages all members of its community who have experienced alleged criminal sexual violence to report the conduct to the police. In an emergency situation, community members should call 9-1-1. CHSU also encourages all community members to report alleged discrimination, harassment, retaliation or sexual violence to CHSU as follows:
 - 1. Complaint Submitted. CHSU cannot remedy claimed harassment or retaliation unless such complaints are brought to its attention. Failure to report claims of harassment and/or retaliation prevents CHSU from taking steps to address the problem. If a CHSU



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community member believes someone has violated this policy, the CHSU community member is strongly encouraged to promptly bring the matter to attention the appropriate party, identified as follows:

- a) For complaints in which the Respondent is a student: Complaints may be filed with the Dean's office of the accused student's college.
 - b) For complaints in which the Respondent is someone other than a student or where the Respondent is a student who is also an employee: Complaints should be filed with the Office of Human Resources.
 - c) CHSU recognizes that complaints may be received by others within the CHSU community, such as ombudspersons, faculty advisors, co-workers, student affairs employees, etc. When complaints are received by such members of the CHSU community, that member has an obligation to report the complaint to the appropriate party, identified above. Additionally, any member of the CHSU community who observes any such incident is strongly encouraged to report the incident, irrespective of whether the alleged victim files a complaint.
 - d) While there is no time limit for submitting such reports, reports of prohibited conduct should be brought forward as soon as possible; all incidents should be reported even if significant time has elapsed but prompt reporting will better enable CHSU to respond, investigate, provide an appropriate remedy, and impose discipline if appropriate. The CHSU prefers the complaint be made in writing and identify the person(s) involved, what occurred and the identity of any witnesses. The complaint should be specific and should include the names of the individuals involved and the names of any witnesses. However, if a complaint is not filed in writing but CHSU receives notice of any allegation(s) that is subject to this policy, CHSU shall take affirmative steps to investigate and address the allegation(s), in a manner appropriate to the particular circumstances. Complaints alleging retaliatory conduct shall also be reported in the same manner.
2. Review and Interim Measures. Upon receipt of the complaint, the Office of Human Resources or Dean, as appropriate, will conduct an initial review of the complaint to clarify the Complainant's allegations and to determine whether the complaint, on its face, plausibly alleges misconduct prohibited by this policy. Following the initial review, if the Office of Human Resources or Dean's office determines that the complaint does not adequately allege prohibited conduct of this policy, the matter may be closed without further action or investigation or be forwarded to the appropriate party for processing under the applicable policy. In such a case, notice shall be provided to the Complainant by the Office of Human Resources or the Dean. If the complaint does allege misconduct prohibited by this policy, the Office of Human



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Resources or Dean's Office may consider and adopt interim measures. Such interim measures may be adopted when there are health and safety risks to the Complainant or CHSU community. Interim measures may serve to limit the effects of the alleged prohibited conduct and to protect the Complainant and other persons. These measures may include, separating the parties, or making alternative working or academic arrangements. Such interim measures shall remain in place until the Office of Human Resources or Dean determines that they are no longer necessary or until a final written decision is issued, whichever occurs first. A person's failure to comply with interim measures may be considered a separate violation of CHSU policies. Whenever interim measures are implemented, the goal is to minimize the impact on the Complainant. A decision about interim measures does not, however, constitute evidence or a finding of a policy violation.

3. Notice to Accused Person and Selection of Investigator. If the complaint is appropriate under this policy, the Office of Human Resources or Dean shall assign a neutral investigator to conduct an investigation into the alleged misconduct, or may choose to investigate the matter directly. The Office of Human Resources or Dean shall have broad discretion in selection of a neutral investigator, provided that the assigned investigator has both the skills and resources necessary to conduct a complete investigation. Before the investigation begins, the Office of Human Resources or Dean will inform the Complainant and the Respondent that an investigation has commenced. The notice will summarize the Complainant's allegations and shall outline the investigation process. In cases involving an active law enforcement investigation, the Office of Human Resources or Dean may determine that notice to the Respondent may interfere with the active criminal investigation. In this situation, the notice to the Respondent may be delayed for a reasonable period of time.
4. Investigation – CHSU will promptly conduct a neutral and thorough investigation into the facts and circumstances of any claim of misconduct prohibited by this policy. The investigator will determine, by a preponderance of the evidence standard (i.e., more likely than not) what occurred and whether the accused person violated CHSU policy.
 - a) The investigation must be appropriately tailored to the circumstances based on the misconduct alleged in the complaint, and shall include, at a minimum, review of relevant documents and interviews with relevant witnesses. The Respondent shall have an opportunity to be interviewed as part of the investigation. In order to protect the integrity of the investigation, the investigator may require that the Respondent or others participating in the investigation to refrain from acting in a specified manner (i.e., such as directives to refrain from contacting others involved in the investigation until the investigation is complete). The findings of the investigation should be documented in the investigation file, which shall be



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forwarded to the Dean or Office of Human Resources as appropriate. The investigation file shall be maintained by the Deans office if the Respondent is a student or the Office of Human Resources if the Respondent is someone other than a student.

- b) A Complainant's or Respondent's refusal to provide the investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation or engage in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation(s).
 - c) Generally, formal investigations should be completed within thirty (30) business days after CHSU's receipt of the complaint. This timeline may be extended for good cause by CHSU and in such circumstances CHSU shall notify the Complainant and Respondent with the reason for the delay and an estimated completion date.
5. Determination. After the investigation is complete, the Office of Human Resources or Dean, as appropriate, will make a determination of whether a violation of this policy occurred. Both the Complainant and Respondent will be notified of the results of the investigation in writing within five (5) business days after the close of the investigation.

VIII. CORRECTIVE ACTION, REMEDIAL MEASURES AND DISCIPLINE

- A. For Respondents who are students, corrective action, remedial measures and/or discipline shall be governed by the student discipline process. The investigation and determination of misconduct which took place under this policy, shall serve as the investigation and determination of misconduct required by the student discipline process.
- B. For Respondents who are employees, corrective action, remedial measures and/or discipline shall be handled by the Office of Human Resources, in consultation with appropriate members of the CHSU administration and the Office of General Counsel, as needed. The investigation and determination of misconduct which took place under this policy, shall serve as the investigation and determination of misconduct required by the employee discipline process.
- C. For Respondents who are third-parties, corrective action and remedial measures shall be handled by the Office of Human Resources, in consultation with appropriate members of the CHSU administration and the Office of General Counsel, as needed.

IX. EMPLOYEES – FILING COMPLAINTS WITH OUTSIDE AGENCIES

- A. CHSU encourages all employees who believe they have been subjected to unlawful



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discrimination or harassment to bring their concerns to CHSU so that appropriate action can be taken. However, an employee of CHSU may file a complaint with the Department of Fair Employment and Housing (1-800-884-1684; <http://www.dfeh.ca.gov>) or the U.S. Equal Employment Opportunity Commission (1-800-669-4000; <http://www.eeoc.gov>).

- B. These agencies may investigate or assist you in resolving any dispute. The DFEH and EEOC, if they prosecute the case, can obtain various remedies for a person including imposing fines or damages for emotional distress against the employer or persons who violated the law; order the employer to hire or reinstate you; order back pay or a promotion; order the employer to change or modify its workplace practices. While it is not required that you exhaust the CHSU's internal investigation process before contacting a governmental agency, CHSU encourages all members of the CHSU community to take advantage of the CHSU's process for resolving harassment, discrimination and retaliation concerns and complaints.

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