

DISCRIMINATION & HARASSMENT POLICY

Statement of Policy

Dominican University is firmly committed to being a community in which students, faculty, and staff are consistently treated with both consideration and respect, and are protected from unlawful discrimination or harassment, including sexual harassment or assault.

Education & Awareness Programs

The University is committed to ensuring that all students participate in education programs to promote the awareness of sexual harassment, rape, acquaintance rape (“date rape”), and non-forcible sex offenses. All new Dominican University of California students are required to participate in an online education program prior to New Student Orientation, and additionally they are required to attend an awareness/education session during Orientation. Resident Assistants participate in programs which enable them to recognize and appropriately respond to issues of sexual harassment/assault among the resident student population. Furthermore, faculty, staff, and supervisors are all required to participate in a mandatory sexual harassment & sexual assault workshop every two years.

Applicable Standards

In accordance with federal and state law, University policy prohibits discrimination or harassment based on race, color, national origin, ancestry, gender, gender identity, sexual orientation, marital status, pregnancy, childbirth, medical condition related to pregnancy or childbirth, religion, religious creed, age, veteran’s status, physical or mental disability, medical condition, or any other basis that is protected by law. Applicable laws governing these prohibitions include Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the California Fair Employment and Housing Act.

Dominican’s policy prohibiting discrimination and harassment applies to all individuals involved in University operations, including students, faculty and staff; applicants for admission or employment; and any persons doing business with or for the University.

Sexual Harassment

Sexual harassment may be viewed as gender-based discrimination. Prohibited forms of sexual harassment include but are not limited to the following kinds of behavior:

- *Verbal conduct*, such as sexual epithets, derogatory jokes or comments, slurs, or unwanted sexual advances;
- *Visual conduct*, such as derogatory or sexually-oriented posters, photography, cartoons, drawings, or gestures;
- *Physical conduct*, such as assault, unwanted touching, or blocking/interfering with an individual’s ordinary movement or activities;
- *Misuse of property*, such as using University computers, e-mail, or web services as a mode of communicating prohibited verbal or visual messages;
- *Abuse of authority*, such as making submission to sexual advances a term or condition of an individual’s academic advancement or employment;

- *Unprofessional conduct*, such as creating an academic or employment environment that could reasonably be perceived as intimidating, hostile, or abusive.

The fact that someone did not intend to sexually harass an individual is no defense to a complaint of sexual harassment. Regardless of intent, it is the effect and characteristics of the behavior that determine whether the behavior constitutes sexual harassment.

Sexual Relationships Between Faculty, Staff and Students

Romantic and/or sexual relationships between faculty or staff and a member of the University community for whom they have teaching, evaluative, advising or supervisory responsibilities are unprofessional, unacceptable and subject to disciplinary procedures, regardless of whether the parties involved view such a relationship as fully consensual.

Even in those instances where no teaching, evaluative, advising or supervisory responsibilities are directly implicated, the inherent imbalance of power or authority between faculty or staff and a student necessarily creates a presumption that such a relationship is not truly consensual and hence prohibited. In such instances, any faculty or staff engaged in such a relationship *must* immediately notify the University's Director of Human Resources, who shall have the responsibility for determining whether there is any abuse of authority or unprofessional conduct, and for initiating any necessary corrective action. Failure so to notify the Director is grounds for commencement of disciplinary procedures.

Sexual Assault

Sexual assault may be defined as the imposition of non-consensual sexual conduct, including but not limited to sexual intercourse, oral copulation, penetration by a foreign object, or touching of the intimate parts of another. Sexual assault is absolutely prohibited, and any member of the University community found guilty of its commission may be subject to the sanctions hereinafter described. In addition, criminal and civil penalties may be imposed by state or federal authorities.

Consent generally means positive cooperation. The person must act freely and voluntarily and have knowledge of the nature of the act involved. A current or previous dating or marital relationship is not sufficient to constitute consent. The use of drugs, alcohol or any other intoxicant may prevent a person from giving consent.

Acquaintance rape, or date rape, is sexual intercourse undertaken by a friend or acquaintance without the consent of the other. Acquaintance rape is punishable in the same manner and to the same degree as similar conduct between strangers. Similarly, other acts of sexual assault are not affected by any acquaintanceship between the parties involved.

Sexual assaults should be reported to the appropriate University personnel as outlined in "Grievance Procedures – Formal Grievance" section. In addition, victims of a sexual assault may wish to report the incident to local law enforcement.

Reporting Discrimination or Harassment

The University's Director of Human Resources serves as Dominican's Title IX Compliance Officer. In this role, the Director is the campus's primary resource on issues relating to perceived

discrimination or harassment. Any student who would like informal advice or assistance in dealing with any instance of perceived discrimination or harassment should contact the Director in Bertrand Hall, tel. 257-1365 (or University extension 1365).

Depending upon the status of the alleged violator, a formal report may be made to any of the following individuals:

1. *If the accused is a student*, the incident should be reported to the Associate Dean of Students.
2. *If the accused is an employee of the University*, the incident should be reported to the Director of Human Resources. This includes faculty and staff.
3. *If the accused has a business relationship with the University*, the incident should be reported to the Director of Human Resources. This includes vendors and contractors.
4. *In other cases*, if the accused is not a student or an employee of the University, and has no business relationship with the University, and the violation did not take place in a University-related setting, Dominican has no authority to take disciplinary action.

Any individual who has been the victim of a sexual assault is encouraged to notify the University immediately. Whether or not an individual makes an official report, he or she is urged to seek immediate help, which may include receiving medical evaluation and treatment, and obtaining information, support and counseling.

Victims may also choose to report the matter to appropriate law enforcement authorities. The University will do everything within reason to assist students, faculty or staff in working with law enforcement.

Retaliation

No individual shall be penalized in any way for having reported or threatened to report discrimination or harassment, nor for cooperating with or participating in an investigation of a complaint or at a hearing concerning discrimination or harassment. Retaliation by any member of the University community against such an individual is prohibited, and shall be considered a serious violation of University policy. Retaliation includes threats, intimidation, reprisals, and any adverse actions related to an individual's employment or education.

Intentionally False Reports

Discriminatory activity and harassment, and particularly sexual harassment or assault, often is not witnessed by others, and reports of such activity cannot always be substantiated by additional evidence. Lack of any such additional evidence should not discourage an individual from reporting any incident in violation of this policy. However, individuals who make reports that are later found to have been intentionally false or made maliciously, without regard for truth, may be subject to disciplinary proceedings.

Confidentiality

Where sexual harassment or assault has been reported, the University will make every effort to preserve the victim's privacy and protect the confidentiality of his or her information. The degree to which confidentiality can be protected, however, will often depend upon the professional role of the person being consulted:

- Clergy or sexual assault victim counselors may keep the confidentiality of statements made to them in their role as clergy or counselors.
- Physicians and psychotherapists may keep the confidentiality of statements made to them in their role as medical professionals, but are required by law to report (1) treatment of an injury sustained during a sexual assault, and (2) suspicion of a sexual assault committed against a person under 18 years of age.

Information shared with other individuals is not legally protected from disclosure. For example, the Associate Dean of Students may need to inform other individuals to protect their safety or rights, in fairness to the persons involved, or in response to legal requirements. In addition, the University is required by law to report to the police certain information about incidents occurring on campus. Such reports are for statistical purposes only and do not include individual identities.

Grievance Procedures

The University has put in place grievance procedures that apply to complaints of misconduct generally by students, faculty and staff. The following informal and formal grievance procedures apply specifically and solely to any problem of perceived discrimination or harassment, including sexual harassment or assault.

Informal Grievance Process

Depending upon the nature and seriousness of the discrimination or harassment reported, any individual who believes that he or she has been treated inappropriately may want first to attempt to resolve the matter informally, by discussing the situation honestly, thoroughly, respectfully, and in a timely manner, with the other person who is involved. *An attempt at an informal resolution is not, however, a prerequisite for bringing a formal complaint.*

In attempting to deal with the problem informally, the aggrieved individual may seek the advice and assistance of any appropriate campus official. For example, a student may wish to speak with his/her academic advisor; a member of the faculty may wish to speak with his/her department chairperson or the Dean of his/her School; or a staff member may wish to speak with his/her supervisor. Alternatively, any member of the University community may consult with:

- The Director of Human Resources at 257-1365 (or University extension 1365); or
- The Associate Dean of Students at 485-3223 (or University extension 3223); or
- The University's Ombudsperson at 485-3282 (or University extension 3282).

Any University official who becomes aware of a situation that involves alleged discrimination or harassment should keep a written record relating to the case (e.g., dates and summaries of conversations). This official should also contact the Director of Human Resources to ensure that the Director has an overview of all complaints that have been voiced. The University also encourages the victim to keep a written record relating to his or her attempt to resolve the problem informally. This documentation may be helpful in cases where a problem persists despite the informal efforts to resolve it.

It is important to note that in any situation involving alleged discrimination or harassment, including sexual harassment or assault, the University owes a duty to the University community as a whole as well as to the victim, and is legally obligated to conduct a thorough and timely investigation to its conclusion, even if the victim requests that an investigation not be conducted

or that an investigation be discontinued. Therefore, the University reserves the right to initiate grievance procedures in these types of situations.

Formal Grievance Process

If the problem is not informally resolved to the satisfaction of the individual, or if he or she does not want to deal with the problem informally, a formal complaint may be brought. Investigation and proceedings will differ depending upon whether the alleged violator is a student, faculty or staff, or a third party. Please consult the Student Handbook for detailed information on the Formal Grievance Process.

Investigation and Proceedings Where the Alleged Violator is a Student

In instances of discrimination or harassment, including sexual harassment or assault, reported against a student, the Associate Dean of Students will be responsible for investigation, and may at his or her discretion refer the matter for hearing and disciplinary action to the Student Judiciary Board. The Associate Dean will inform both the victim and the alleged violator of their legal rights, and will provide the victim with the form "Petition to Initiate a Formal Grievance," which should in ordinary circumstances be filed within 180 days of the alleged incident of harassment or discrimination. If the Associate Dean refers the matter to the Student Judiciary Board, the Board's standard methods and procedures shall be observed (see student handbook), except that hearings may be closed to the public if the Board determines that the privacy rights of a witness may be jeopardized. During most disciplinary hearings, the accuser and the accused are entitled to the same opportunity to have others present.

Within twenty (20) working days of the Board's recommendation, or within sixty (60) working days of the initial report, if the Associate Dean of Students has chosen not to refer the matter to the Board, the Associate Dean shall submit a written decision, including a description of any corrective actions taken or to be taken, to each involved party.

Pending his or her decision, the Associate Dean of Students may take a variety of administrative measures against a student charged with discrimination or harassment, including restriction of privileges and services, interim suspension, and exclusion from certain on-campus facilities, such as classrooms or the residence halls.

Students found guilty of discrimination or harassment will be subject to University sanctions. In the case of sexual assault or complicity in sexual assault, possible sanctions will include but are not limited to:

1. Community service
2. Sexual assault education
3. Psychological assessment and counseling
4. Dismissal from the residence halls, or barring of access to the campus
5. University probation
6. Suspension from the University
7. Expulsion from the University, including withholding of any degree not yet awarded

Furthermore, the university will change a victim's academic schedule and/or living situation after an alleged sex offense if so requested by the victim and such accommodations are reasonably available.

Individuals also may bring a complaint concerning discrimination on the basis of race, color, national origin, gender or disability to the attention of the Office for Civil Rights in the U.S. Department of Education. Any member of the University community may seek assistance from the Director of Human Resources regarding how to contact this federal agency with a claim of discrimination or harassment.

Investigation and Proceedings Where the Alleged Violator is Faculty or Staff

In instances of discrimination or harassment, including sexual harassment or assault, reported against a faculty or staff member of the University, the Director of Human Resources will be responsible for investigation, and may at his or her discretion refer the matter to a special investigator. The Director will inform both the victim and the alleged violator of their legal rights, and will provide the victim with the form "Petition to Initiate a Formal Grievance," which should in ordinary circumstances be filed within 180 days of the alleged incident of harassment or discrimination. A formal investigation will generally involve appointment of an investigator; interviews with the victim, with the alleged violator(s), and, where appropriate, with witnesses; and, again where appropriate, a joint meeting between the involved parties.

Within sixty (60) working days of the filing of the Petition, the investigator will issue findings and a recommendation either to the Vice President for Academic Affairs (for faculty) or to the Vice President for Finance and Administration (for staff). If it is a Vice President against whom the grievance has been filed, the Director of Human Resources will make a determination as to the most appropriate University official to decide the grievance. Within twenty (20) working days of the issuance of the investigator's findings and recommendations, the Vice President shall submit a written decision, including a description of any corrective actions taken or to be taken, to each involved party (with a copy to the Director of Human Resources).

Pending the Vice President's decision, the Director of Human Resources may take a variety of administrative measures against an employee charged with discrimination or harassment, including restriction of privileges and services, involuntary leave (with or without pay), and exclusion from certain on-campus facilities, such as classrooms or the residence halls.

Employees found guilty of discrimination or harassment will be subject to University sanctions. In the case of sexual assault or complicity in sexual assault, possible sanctions will include but are not limited to:

1. Community service
2. Sexual assault education
3. Psychological assessment and counseling
4. Formal letter of reprimand
5. University probation
6. Suspension from employment
7. Termination of employment

Individuals also may file a complaint relating to prohibited harassment in employment with either the Federal Equal Employment Opportunity Commission or the California Department of Fair Employment and Housing; they also may bring a complaint concerning discrimination on the basis of race, color, national origin, gender or disability to the attention of the Office for Civil Rights in the U.S. Department of Education. Any member of the University community may

seek assistance from the Director of Human Resources regarding how to contact the state and federal agencies with a claim of discrimination or harassment.

Investigation and Proceedings Where the Alleged Violator is a Third Party

In instances of discrimination or harassment, including sexual harassment or assault, reported against a vendor, contractor or any other person doing business with or for the University, the Director of Human Resources will be responsible for investigation, which shall generally follow the procedures established for handling a complaint against staff, except that interim measures and disciplinary sanctions shall be appropriate to the circumstances, and may include termination of the business relationship and reporting to federal, state or local regulatory agencies. The appeal procedure available to faculty, staff or students is not available to third parties, and the decision of the Vice President for Finance and Administration will be final, unless challenged by a faculty or staff member, or a student.

Appeal Procedure

An appeal procedure is available to faculty, staff or students who are not satisfied with the outcome of the disciplinary proceedings. A written request for further review must be submitted to the Director of Human Resources within five (5) working days of the receipt of the written decision of the Associate Dean of Students (for students), the Vice President for Academic Affairs (for faculty), or the Vice President for Finance and Administration (for staff).

Within five (5) working days after the appeal is filed, the written decision and the Board's recommendation (for students) or the written decision and the findings and recommendations of the investigator (for faculty and staff) will be sent to the University President. These documents will constitute the appeal record. The President or his/her designee will review the appeal record, and may at his/her discretion review other facts relating to the grievance.

Within fifteen (15) working days of the receipt of the appeal record, the President or his/her designee will render a final decision in the matter, copies of which, including notice of any corrective action taken, will be provided to the involved parties. This decision of the President or his/her designee shall be final in all respects and not be subject to review under any other grievance procedure in effect at the University.

A NOTE ABOUT TIME FRAMES: The University's grievance procedures reflect Dominican's commitment to resolving problems in an expeditious manner. Every reasonable attempt will be made to adhere to the time frames specified, but there may be occasions when it will be necessary to make exceptions. Such occasions could relate to the circumstances and complexity of the matter, the time demands and schedules of the parties involved, or the time of year that a grievance is filed (e.g., many faculty members and students are not available during semester breaks or over the summer months). It is the goal of the University to balance the need for an expeditious resolution with the need to make a full and accurate investigation. If it is deemed necessary to alter the time frames specified in these policies, all parties will be notified of the amended schedule.

APPENDIX

RESOURCE GUIDE FOR VICTIMS OF SEXUAL ASSAULT

SEXUAL ASSAULT AWARENESS AND PREVENTION

Sexual assault can happen anywhere. Research findings suggest that approximately 25 percent of women and 5 to 10 percent of men have been raped. (Psychology of Women Quarterly, Vol. 20, 1996.) The research further suggests that the highest number of assaults occur among 18 to 21 year-old women. (Journal of American College Health, Vol. 45, 1997.) Sexual assault is a widespread problem on college campuses across the country, with as many as one in five female students being victimized during their undergraduate careers according to government statistics. Because less than 5 percent of these students report their assault to the police, the response of colleges to this problem is extremely important. This guide is offered as a means of becoming aware of the issues involved, the actions you can take to prevent or respond to a sexual attack, and the resources available to victims, their families and friends.

WHAT TO DO IF YOU ARE SEXUALLY ASSAULTED

The following are actions you can take after a rape or other sexual assault:

- Get to a safe place immediately.
- Leave the scene of the crime as is. Do not drink, eat, shower, douche, wash your hands, comb your hair, brush your teeth, or change your clothes. Such activities destroy physical evidence that could be used in the possible prosecution of the perpetrator.
- Contact a friend who can help you and support you.
- Contact the campus or community resources listed below for treatment and counseling.
- **Get medical attention right away.** Even if you do not want to report the event to the police, you may have injuries, sexually transmitted diseases, or a pregnancy that requires medical care. Take a change of clothes to the hospital because those worn during the assault may be collected as evidence. Hospitals can also provide you with emergency contraception upon request.
- Consider contacting Community Violence Solutions (800/670-7273) to advocate on your behalf at the hospital. If you wish, the police may also meet you at the hospital.
- When you get a quiet moment, record everything that you remember happening in detail. This may help you through your own healing process as well as with any legal action you may decide to take.

The importance of seeking immediate medical attention cannot be overstated. While the University Student Health and Counseling Services will support and act as a resource for any student, the most comprehensive, complete medical care is available at a local hospital emergency room.

HOSPITAL EMERGENCY NUMBERS

Marin General Hospital
415-925-7200

Novato Community Hospital
415-209-1350

Kaiser Hospital, San Rafael
415-444-2400

RIGHTS OF A SURVIVOR

- You have the right to receive medical care and mental health treatment.
- You have the right to participate in legal procedures only after giving informed consent.
- You have the right not to be asked questions about prior sexual experiences.
- You have the right to keep your name from the media.
- You have the right to be protected against future assaults.
- You have the right to report to the police.
- You have the right not to report to the police.
- You have the right to be given as much credibility as a victim of any other crime.
- You have the right to be treated with dignity and respect.

HOW TO HELP A FRIEND

- Give your friend the chance to talk about the experience and her or his feelings. Be supportive, and thoughtful in your responses. Do not overreact. Do not question your friend's actions or judgment. Believe your friend and let your friend know you do.
- Show interest, but do not pry or ask for specific details which may make the survivor relive the experience. Allow your friend to be silent. You do not have to speak when she or he stops talking.
- Support your friend in making decisions about whom to tell and how to proceed, but recognize your own limitations. No one expects you to be an expert in counseling or sexual assault; therefore, avoid making strong recommendations to the survivor. Instead, listen and then ask how you can help.
- Do not touch or hug your friend without permission.
- Realize that as a friend you yourself may need counseling to cope with the events your friend may have shared with you.

ONGOING SUPPORT

Immediately following the assault, and later when you may find you need support and counseling, there are University and community resources available to you. The following people are trained to offer you this kind of support and counseling:

- Student Health Center: 415-485-3208 (business hours)
- Student Counseling Services: 415-485-3258 (business hours)
- Community Violence Solutions: 415-259-2850 (anytime)
- Marin Abused Women's Services
 - English Hotline 415-924-6616 (anytime)
 - Spanish Hotline 415-924-3456 (anytime)
- San Rafael Police: 415-485-3000 (anytime)

If you are in danger or need immediate medical help, call 911.