



**Policy**

Title:	<b>Non-Discrimination and Anti-Harassment Policy</b>
Effective Date:	August 1, 2020
Approved By:	Board of Trustees
Responsible Party:	Board of Trustees
History:	9/01/1998; 11/01/2001;10/29/2007;10/31/2011;11/05/2013; 5/19/2014; 5/21/2018; 7/27/2020

**I. PURPOSE**

Salus University (“the University”) is committed to maintaining a fair and respectful environment for work and study. Salus University complies with Title IX of the Education Amendments of 1972, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Title VII of the Civil Rights Act of 1964, and all other applicable federal, state, or local laws regarding unlawful discrimination and harassment. To that end, the University prohibits any member of the board of trustees, faculty, staff, administration, student body, volunteers or visitors to campus, whether they be guests, patrons, independent contractors, or clients, from discriminating against any other member of the Salus University community because of that person’s race, sex (including sexual harassment and sexual violence), sexual orientation, ethnicity or national origin, religion, age, genetic information, disabled status, status as a disabled veteran or veteran of the Vietnam era or any other characteristic protected by state law, federal law, or local ordinance in hiring, employment opportunities, education programs, and any other activities sponsored by the University

Consistent with federal and state law and University policy, Salus University restates its commitment to the concepts of affirmative action and equal opportunity. Salus University will continue in its efforts to maintain an institutional environment free of unlawful discrimination and restates its stance against unlawful discrimination in institutional processes.

Every member of the Salus University community is expected to uphold this Policy as a matter of mutual respect and fundamental fairness in human relations. Every student of this institution has a responsibility to conduct himself/herself in accordance with this Policy as a condition of enrollment. Further, every University employee has an obligation to observe University policies in implementation of federal, state, and local law as a term of employment.

Merit and productivity, free from prohibited bias, will continue to guide decisions relating to employment and enrollment. Accordingly, once the University has notice of an incident involving unlawful discrimination, the University shall take prompt and appropriate steps to investigate the incident.

Incidents of unlawful discrimination and harassment will not be tolerated and will be met with appropriate disciplinary action, up to and including dismissal/separation from the University. Thereafter, the University shall take remedial action to address confirmed incidents of unlawful discrimination, and shall use measures reasonably calculated to end any harassment, eliminate a hostile environment (if one has been created), and prevent any future harassment.

No person will be penalized for good faith utilization of channels available for resolving concerns dealing with prohibited bias.

## **II. DEFINITIONS**

### **Sex Discrimination**

Sex discrimination is conduct that discriminates against another person on the basis of sex. Sex discrimination can be manifested by:

- Unequal access to employment or educational programs and activities on the basis of sex;
- Unequal treatment of another on the basis of sex in the course of conducting those programs and activities; or
- The existence or implementation of a program or activity that has a disparate impact on participation, improperly based on the sex of participants.

### **Sexual Harassment**

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, and other verbal, non-verbal or physical conduct of a sexual nature, when:

- Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment or status in a course, program or activity;
- Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual; or
- A reasonable person would find such conduct so severe, pervasive and objectively offensive that it has the purpose or effect of creating an intimidating, hostile or offensive working environment or interfering with or limiting one's ability to participate in or benefit from an educational program or activity.

For the purposes of this definition, communication may be oral, written, or electronically transmitted. Without limiting the foregoing, use of audio, computer, or visual equipment in violation of the University's policy on such use may constitute sexual harassment.

Examples of sexual harassment may include, but are not limited to the following:

1. Stalking another member of the Salus University community. Stalking may include persistent attempts to contact the person by phone, electronic communication, or regular mail; vandalizing the person's property or leaving unwanted items for the person; and/or constantly appearing at the person's classroom, residence, or workplace without permission.
2. Direct or implied threats that submission to sexual advances will be a condition of employment, work status, compensation, promotion, grades, or letters of recommendation.
3. Sexual advances, physical or implied, or direct propositions of a sexual nature. This activity may include inappropriate/unnecessary touching or rubbing against another, sexually suggestive or degrading jokes or comments, remarks of a sexual nature about one's clothing and/or body, preferential treatment in exchange for sexual activity, and the inappropriate

- display of sexually explicit pictures, text, printed materials, or objects that do not serve an academic purpose.
4. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or that humiliates another.
  5. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history that do not serve a medical or academic purpose.

Sexual harassment can occur regardless of the relationship, position or respective sex of the parties. Sexual harassment can be committed by a man, a woman, or a group of people against a person or persons of the same or opposite sex. Same sex harassment violates this Policy as does harassment by a student of a faculty member or a subordinate employee of his/her supervisor.

Sexual harassment can be committed by friends, acquaintances, supervisors, co-workers, administrators, faculty members, and/or any other person. A person may commit acts of sexual harassment even if the person's conduct is not directed at a specific person.

### **Sexual Violence**

In general, sexual violence is any sexual physical contact (intercourse, penetration of the genitals or indecent contact) by a person, without the "consent" of the complainant (the individual to whom the contact is directed). Without "consent" includes sexual physical contact that involves any of the following:

- Forcible compulsion;
- Threat of forcible compulsion that would prevent resistance by a complainant of reasonable resolution;
- The complainant is unconscious or the person knows that the complainant is unaware that the intercourse, penetration or indecent contact is occurring;
- The person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance; or
- The complainant is unable to consent due to temporary or permanent incapacity or impairment, mental or physical. "Incapacity" or "impairment" may include, but is not limited to, being under the influence of alcohol or drugs to a degree which renders the person incapable of consent.

### **Discriminatory Harassment**

Discriminatory harassment is unwelcome verbal or physical conduct based on race, color, religion, national origin, sex, sexual orientation, age, genetic information, veteran status, or disability, when a reasonable person would find such conduct so severe, pervasive and objectively offensive that it has the purpose or effect of:

- creating or having the intention of creating an intimidating, hostile, or offensive working environment; or
- interfering with or limiting one's ability to participate in or benefit from an educational program or activity.

### **Reporting: Title IX Coordinator; Hotline**

The University's Title IX Coordinator is tasked with educating, training, investigating and responding to matters relating to unlawful discrimination and harassment in accordance with this Policy.

Any incident of unlawful discrimination, sexual harassment or sexual violence should be promptly reported to the University's Title IX Coordinator:

Chief of Staff and Counsel  
Salus University  
8360 Old York Road  
Elkins Park, PA 19027  
bzuckerman@salus.edu  
267-879-8597

or through the University's Compliance Hotline (which allows for confidential reporting):

safewhistle.com/report - code: 1QJkNA  
844-570-7233 - code: 791755

Allegations against the Chief of Staff and Counsel should be directed to the President, who, in such instance, shall appoint a different investigator. The Title IX Coordinator or the investigator appointed by the President (in the case of an allegation against the Chief of Staff and Counsel) is referred to as an "Investigator" in this Policy. The Investigators are authorized to utilize other appropriately trained individuals (including the engagement of outside professionals) to investigate incidents involving unlawful discrimination and harassment as deemed appropriate.

### **III. POLICY**

The University's Non-Discrimination and Anti-Harassment Policy applies to all trustees, faculty, staff, administration, supervisors, employees, the student body, volunteers and visitors to campus. This includes, but is not limited to, guests, patrons, independent contractors, or clients of the University. This Policy prohibits unlawful discrimination and harassment in any University education program or activity, which means all academic, educational, extracurricular, athletic and other programs.

Trustees, faculty, staff, administration, supervisors, employees, volunteers and students who believe that they have witnessed or been subjected to unlawful discrimination and/or harassment should immediately report such incidents in accordance with this Policy. Unlawful discrimination or harassment that occurs during University-sponsored off-campus programs are covered by this Policy and should be reported, including but are not limited to, incidents that occur in: community outreach programs, internships, student teaching, and applied learning experiences.

The University shall pursue sanctions, including possible criminal action, against non-University visitors, guests, patrons, independent contractors or clients who commit acts of unlawful discrimination and harassment against members of the Salus University community.

This Policy is not meant to address differences in opinion regarding matters that are unrelated to unlawful discrimination, including but not limited to, validity of employment determinations such as salary recommendations, promotion and tenure decisions, performance evaluations, hiring decisions, job classification decisions, transfers or reassignments, termination or layoff because of lack of work or elimination of a position, and normal supervisory counseling. Furthermore, this Policy does not intend to address behaviors that do not constitute unlawful discriminatory harassment. Offensive workplace behavior that does not violate this Policy should be addressed to the appropriate supervisor and/or the Vice President of Human Resources.

## **Academic Freedom and Freedom of Expression**

The University is committed to protecting, maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching, service, and research. However, these freedoms come with a responsibility that all members of the education community benefit from these freedoms without intimidation. In recognition and support of academic freedom for faculty in the pursuit of teaching, academic freedom and freedom of expression shall be considered in investigating and reviewing complaints and reports of unlawful discrimination and/or harassment. However, raising issues of academic freedom and freedom of expression will not excuse behavior that constitutes unlawful discrimination or harassment.

## **Supervisory/Authority Relationships**

No individual who is in a position of authority over another, either in the employment or educational context, has the authority to unlawfully discriminate against or harass others by virtue of his or her role. The University does not in any way condone unlawful discrimination or harassment by a person in a position of authority, an administrator, or a supervisor. Furthermore, a supervisor, administrator, or person in a position of authority who does not appropriately handle reports or incidents of unlawful discrimination and/or harassment, or who does not report incidents about which he/she becomes aware in accordance with this Policy may be subject to disciplinary action.

## **Consensual Relationships**

When one party has a professional relationship toward the other, or stands in a position of authority over the other, even an apparently consensual sexual relationship may lead to unlawful sexual harassment.

The University prohibits all trustees, faculty and staff from pursuing or engaging in dating or sexual relationships with students whom they currently supervise, teach, or have authority over.

Anyone involved in or who commences a consensual dating or sexual relationship with someone over whom he or she has supervisory employment power or authority must immediately disclose the existence of the relationship to his/her immediate supervisor. Anyone involved in or who commences a consensual dating or sexual relationship with someone over whom he or she has supervisory employment power or authority cannot participate in any decisions that affect the compensation, evaluation or employment conditions of the subordinate involved.

## **IV. PROCEDURE**

### **Reporting; Informal Complaints; Supportive Measures**

Reports of unlawful discrimination and harassment should be made in accordance with this policy as soon as possible after the incident(s) occur in order to allow them to be most effectively investigated.

Upon receipt of a report of unlawful discrimination or harassment from an individual other than the complainant (the person whom is alleged to be the victim), the Investigator shall contact the complainant.

A complainant may report an incident to an Investigator without bringing a formal complaint. The Investigator shall respect the Complainant's wishes with respect to whether an investigation should be initiated, unless the Investigator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is clearly reasonable in light of the known circumstances.

The complainant shall be informed of the University's "Supportive Measures" designed to ensure equal educational access, protect safety or deter unlawful harassment and discrimination. Supportive Measures

may include counseling services, the support of the Security and Safety Department and advocacy services and are designed to be non-punitive, non-disciplinary and not unreasonably burdensome to the other party.

### **Responsibility of Individuals**

The University strongly encourages any individual who feels he or she has been unlawfully discriminated against or harassed, or who knows of or witnesses unlawful discrimination or harassment, to promptly report the incident, whether informally or by filing a formal complaint.

No individual should assume that an official of Salus University knows about a particular situation.

### **Responsible Employees**

Any member of Presidents' Council or Dean's Council who knows of, receives a complaint of, or witnesses any unlawful discrimination or harassment must promptly report the incident in accordance with this Policy. The failure to do so is subject to appropriate disciplinary action, up to and including termination.

### **Protection of Rights**

The University shall not restrict the rights of either the complainant or the respondent (the person against whom the complaint is brought) under the United States Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment.

The University shall respect the privacy of the complainant, the respondent and the witnesses in an investigation in a manner consistent with the University's legal obligations to investigate, to take appropriate action and to comply with any discovery or disclosure obligations required by law. An investigation shall not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The University's process for resolving formal complaints shall be transparent and consistent by:

- Treating complainants equitably by providing remedies any time a respondent is found responsible, and treat respondents equitably by not imposing disciplinary sanctions without following the process prescribed by this Policy;
- Designing remedies that maintain the complainant's equal access to education;
- Objectively evaluating all relevant evidence, inculpatory and exculpatory, and avoiding credibility determinations based on a person's status as a complainant, respondent or witness;
- Requiring Investigators and Decision Makers (as defined below) to be free from conflicts of interest or bias for or against complainants or respondents;
- Training Investigators and Decision Makers on this policy and its procedures, including how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias and making such training materials subject to public inspection; and
- Presuming that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the investigation procedures.

### **Filing a formal complaint**

If a complainant is able and feels safe, he or she should clearly explain to the alleged offender that the behavior is objectionable and request that it cease. If the complainant is not able or does not feel safe confronting the alleged offender, or the behavior does not stop, or if the complainant believes some adverse employment or educational consequences may result from the discussion, he or she should report the incident to an Investigator and may bring a formal complaint.

Only a complainant or an Investigator (following the receipt of a report and after contacting the complainant), may file a formal complaint by affixing their signature thereto. A formal complaint should be brought as soon as possible after the most recent incident. An untimely formal complaint may adversely impact the University's ability to respond and take appropriate action to redress unlawful discrimination or harassment.

### **False accusations**

The University prohibits any complainant from knowingly or maliciously filing a false or baseless formal complaint. The University treats all allegations of unlawful discrimination or harassment seriously; thus, any deliberate false accusations violate this Policy. If an investigation results in a finding that the complainant falsely accused another of unlawful discrimination or harassment, the complainant will be subject to disciplinary action, including the possibility of dismissal/termination from the University.

### **Responding to a complaint**

In response to a formal complaint, the Investigator shall:

- Promptly determine if the allegations do not meet the definition of unlawful harassment or discrimination set forth in the Policy, and, if they do not, dismiss the complaint. If appropriate, the complainant may be referred to an alternative dispute resolution procedure.
- Dismiss, in their discretion, a formal complaint or allegations therein if:
  - the complainant informs the Investigator in writing that the complainant desires to withdraw the formal complaint or allegations therein;
  - the respondent is no longer enrolled or employed by the University; or
  - specific circumstances prevent the University from gathering sufficient evidence to reach a determination.
- Notify, in writing, the parties of any dismissal and their right to appeal.
- In their discretion, consolidate formal complaints where the allegations arise out of the same facts.
- Inform the complainant of the procedures set forth in this Policy and provide a copy of this Policy.
- Inform the complainant of the University's Supportive Measures.
- Inform the respondent of the existence of the complaint, the procedures set forth in this Policy and provide a copy of this Policy.
- Inform the complainant of the University's Supportive Measures.
- Provide parties with the same opportunity to select an advisor of the party's choice who may be, but need not be, an attorney.
- Bear the burden of obtaining information and evidence, including the identity of any witnesses, from the parties.
- Protect the privacy of a party's medical, psychological, and similar treatment records by not accessing or using such records without the party's written consent.
- Provide equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence.
- Not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no "gag orders").
- Solely in connection with allegations of sex discrimination/sexual harassment/sexual violence, conduct a live hearing as described below.
- Send written notice to the parties of any investigative interviews, meetings or hearings.
- Maintain appropriate documentation.
- Disclose appropriate information to others only on a need-to-know basis for the purposes of the investigation and as consistent with state and federal law.

In connection with formal complaints against:

- students or faculty, the Provost shall serve as the decision maker;
- staff (other than the President, Chief of Staff and Counsel or member of the Board of Trustees), the Vice President of Human Resources shall serve as the decision maker;
- the Chief of Staff and Counsel, the President shall serve as the decision maker; or
- the President or member of the Board of Trustees, a committee (the “Board Committee”) consisting of the Vice Chair Person of the Board, the Chairperson of the Committee on Trustees and the Chairperson of the Audit and Compliance Committee (if any one of these individuals is the subject of the allegation or unable to serve, the remaining committee members shall appoint an alternate trustee to serve) shall serve as the decision maker.

Such individuals serving in such capacity are referred to herein as the “Decision Maker”.

### **Live Hearings**

In connection with formal complaints that include allegations of sex discrimination, sexual harassment and/or sexual violence, a live hearing, with the Decision Maker presiding shall be held during which:

- Each party’s advisor (but not the party themselves) may ask (directly, orally and in real time) the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
- A party may request that the entire live hearing (including cross-examination) occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.
- Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent or witness answers a cross-examination or other question, the decision-maker shall first determine whether the question is relevant and explain to the party’s advisor asking cross-examination questions any decision to exclude a question as not relevant.
- If a party does not have an advisor to accompany them at the live hearing, the University shall provide, without fee or charge to that party, an advisor of the University’s choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.
- If a party or witness does not submit to cross-examination, the Decision Maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Decision Maker cannot draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions.
- Rape shield protections shall be in place for all hearings, deeming irrelevant questions and evidence about a complainant’s prior sexual behavior unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent.

### **Investigation procedures**

If alternative dispute resolution procedure(s) are not appropriate, an investigation will be conducted as thoroughly and expeditiously as possible and normally shall be completed within sixty (60) days from the initiation of the formal complaint, except where circumstances require a longer period. If a longer period is required, the parties shall be notified.

It is important to keep in mind that the scope of the investigation will not be limited to information provided by the parties in their formal statements or to the violations alleged in the complaint. In all cases, the Investigator shall conduct an adequate and impartial investigation into the allegations of the formal complaint and prepare a written investigative report.



A copy of the investigative report, together with all evidence directly related to the allegations, shall be provided to both parties with an opportunity to inspect, review and respond to the evidence within 10 days of the receipt thereof.

### **Investigative Data**

During the investigation, the Investigator shall keep private the information gathered during the investigation to the extent permitted by state and federal law. Confidentiality shall be maintained throughout the investigation process to the extent that it is practical and appropriate under the circumstances.

### **Summary Action**

The President or his/her designee may impose a summary suspension prior to the completion of the investigation and resolution of a formal complaint. However, a summary suspension may be imposed only when, in the judgment of the President, or his/her designee, the respondent's presence on campus would constitute a threat to the safety and well-being of members of the Salus University community. Before implementing the summary suspension, the respondent shall be given written notice of the intention to impose the summary suspension and shall be given an opportunity to present oral and written arguments against the imposition of the suspension. If the respondent is summarily suspended, the formal investigation process should be completed within the shortest reasonable time period possible, not to exceed ten (10) working days. During the summary suspension, the respondent may not enter the campus without obtaining prior written permission from the Investigator.

### **University Action**

Following the conclusion of the investigation and after the review of any response(s) to the investigation report timely received from the parties, the Decision Maker shall promptly render a decision using a preponderance of the evidence standard.

The Decision Maker shall issue to the parties a written determination including:

- findings of fact;
- conclusions about whether or not the alleged conduct occurred;
- rationale for the result as to each allegation;
- any disciplinary action imposed on the respondent; and
- any remedies to be provided to the complainant.

The written determination shall be sent simultaneously to the parties along with information about how to file an appeal and shall be considered official University correspondence.

In the event the investigation reveals that unlawful discrimination or harassment or other inappropriate or unprofessional conduct (even if not unlawful) has occurred, disciplinary action may be taken by the University. Disciplinary action may include counseling, education, probation, suspension, dismissal/termination or a combination of such actions.

Moreover, the University is committed to taking any and all steps to prevent the recurrence of any unlawful discrimination or harassment and/or retaliation. The University shall take the appropriate remedial action based on results of the investigation and shall follow up as appropriate to ensure that the remedial action is effective. Complainants are encouraged to report any reoccurrences of conduct that were found to violate this Policy.

## **Right to appeal**

Either party shall have the right to appeal, to the President (or to the Board Committee, if the Chief of Staff and Counsel is a party; or to the Chairperson of the Board of Trustees, if the President is a party), the dismissal of a formal complaint or the University's written determination following an investigation of a formal complaint. An appeal may be made solely on the following bases:

- a procedural irregularity that affected the outcome of the matter;
- newly discovered evidence that could affect the outcome of the matter, and/or
- the Investigator or Decision Maker had a conflict of interest or bias that affected the outcome of the matter.

A written appeal must be received by the Office of the President within ten (10) working days after the date of the dismissal of the formal complaint or the written determination following investigation of a formal complaint. The individual(s) hearing the appeal may in his/her sole discretion extend the time for an appeal. The individual(s) hearing the appeal may receive additional information if he/she believes such information would aid in the appeal. A decision shall be made within a reasonable time following an appeal and the Investigator, the complainant, and the respondent shall be notified in writing of the decision on the appeal. During the time of appeal and review, disciplinary action, if any, taken as a result of the original formal complaint, may be stayed or implemented, at the discretion of the individual(s) hearing the appeal.

## **Prohibition against retaliation**

The University strictly prohibits any form of retaliation against any person who raises or reports an allegation of unlawful discrimination or harassment. Anyone who, in good faith, reports what he or she believes to be unlawful discrimination or harassment, or who participates or cooperates in any investigation, shall not be subjected to retaliation. Anyone who believes that he or she has been the victim of such retaliation should immediately contact the title IX Coordinator. Any person found to have so retaliated shall be in violation of this Policy and subject to disciplinary action.