



TOURO COLLEGE POLICY MANUAL
POLICIES CONCERNING SEX DISCRIMINATION, HARASSMENT AND COMPLAINT
PROCEDURE

1.0 POLICY

This policy applies to all members of the Touro College (“Touro”) community, including students, faculty, and administrators as well as third-parties (i.e. vendors, and invitees). Discrimination or harassment of any kind in regards to a person's sex is not tolerated at our institution. Information and/or training regarding this policy is available to students, faculty, and staff.

Touro promotes an environment in which the dignity and worth of all members of the community are respected. It is the policy of Touro that sexual intimidation of students and employees is unacceptable behavior and will not be tolerated. Touro will not tolerate unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature constituting sexual harassment.

In general, it is a sex crime to engage in any sexual contact with a person who does not consent, or to engage in sexual intercourse, deviant sexual intercourse, or sexual abuse if it is accomplished by forcible compulsion. New York Law also defines these acts as crimes if any of them are engaged in with a person who is incapable of consent either because of the person's age or because the person is mentally defective, mentally incapacitated, or physically helpless. Therefore, sexual abuse, sodomy, and rape are sex crimes and violators will be prosecuted in accordance with New York Penal Law.

In addition, information about this policy will be available on Touro College’s (“Touro”) website.

2.0 PURPOSE

All divisions of Touro seek to foster a collegial atmosphere where students are nurtured and educated through close faculty-student relationships, student camaraderie, and individualized attention. Discrimination or harassment of any kind is anathema to Touro’s mission, history, and identity. Touro will resolve any identified discrimination in a timely and effective manner, and will ensure that it does not recur. Compliance with Touro’s policies and procedures is a necessary step in achieving a safe environment in our educational community. The policies set

forth were developed to promote a safe educational environment in compliance with the Violence Against Women Act (VAWA) and a high quality campus life.

Those believing that they have been harassed or discriminated against on the basis of their sex, including sexual harassment, should immediately contact the Title IX coordinator. When Touro has notice of the occurrence, Touro is compelled to take immediate and effective corrective action reasonably calculated to stop the harassment, prevent its recurrence, and as appropriate, remedy its effects.

3.0 SCOPE

This policy applies to all members of Touro, including students, faculty, and administrators as well as third-parties (including, but not limited to, vendors, invitees, etc.). Information and/or training regarding this policy are available to students, faculty, and staff. In addition, information about this policy will be available on Touro's website.

4.0 DEFINITIONS

- Discrimination and Harassment
 - Title IX, and its implementing regulations, prohibit discrimination based on sex, including sexual harassment. ***The prohibition against discrimination extends to employment and third-parties.*** Sexual harassment is unwelcome conduct of a sexual nature and can include sexual advances, request for sexual favors, and other verbal, non-verbal, or physical conduct. Environmental harassment (sometimes referred to as hostile environment) is sexually harassing conduct that is sufficiently severe, persistent or pervasive to limit an individual's ability to participate in or receive benefits, services, or opportunities at Touro. This can include persistent comments or jokes about an individual's, sex; verbal behavior, including insults, remarks, epithets, or derogatory statements; nonverbal behavior, including graffiti, inappropriate physical advances short of physical violence such as repeated and unwanted touching; and assault, including physical violence or the threat of physical violence.
- Consent with regards to sexual activity
 - Communicated through mutually understandable words or actions that indicate willingness by all the involved parties to engage in the same sexual activity, at the same time, and in the same way.
- Dating Violence
 - Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - The existence of a social relationship is based on the "reporting party's statement" with consideration of
 - the length of the relationship,
 - the type of relationship, and
 - the frequency of the interaction between the persons involved.
 - Dating violence does not include acts covered by the definition of domestic

violence.

- Domestic Violence
 - Domestic violence is a felony or misdemeanor crime of violence committed by any of the following individuals:
 - A current or former spouse or intimate partner of the victim; or
 - A person with whom the victim shares a child in common; or
 - A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; or
 - A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies [under VAWA]; or
 - Any other person against an adult or youth victim who is protected under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- Sexual Harassment
 - Unwelcome sexual advances, requests for sexual favors, and, other visual, verbal or physical conduct of a sexual nature, when:
 - An individual's submission to or rejection of the conduct is made, either explicitly or implicitly, a term or condition of employment or of status in a course, program, or activity, or is used as a basis for employment or academic decision; or
 - The conduct has the purpose or effect of unreasonably interfering with an individual's work performance, academic performance, or educational experience, or of creating an intimidating, hostile, humiliating, or offensive working, educational, or living environment.
- Sexual offense
 - Unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature constituting sexual harassment.
- Sexual assault
 - An offense that meets the definition of rape, fondling, incest or statutory rape as acted in the FBI's Uniform Crime Reporting program.
 - Rape
 - Is the perpetuation of an act of sexual intercourse with a person against his or her will and consent.
 - Is the penetration of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person without the consent of a person.
 - Acquaintance rape is rape that involves people who know or are familiar with each other.
- Sodomy
 - Is generally anal or oral sexual activity between people.
- Stalking
 - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.
 - A course of conduct is two or more acts, including, but limited to:
 - Acts in which the 'stalker' directly, indirectly, or through third parties by

- any action, method, device, or means,
 - Follows, monitors, observes, surveils, threatens, or communication to or about, a person or interferes with a person's property.
- Substantial emotional distress is a significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling.
- A reasonable person is one under similar circumstances and with similar identities to the victim.
- Preponderance of the evidence
 - Just enough evidence to make it more likely than not that the fact the claimant seeks to prove is true.
- Retaliation
 - Retaliation is any kind of reprisal, adverse action, or negative action taken against an individual because he or she has: (1) complained about alleged discrimination or harassment as defined above, (2) participated as a party or witness in an investigation relating to such allegations, or (3) participated as a party or witness in a proceeding regarding such allegations. Retaliation can occur contemporaneously during the complaint process or subsequent to it, once the retaliator is aware of the recipient's participation in the process. Retaliation does not exist in the absence of an adverse action. An individual is protected from retaliation even when the complaint at issue is ultimately found to lack merit, as long as the complaint was made in good faith.
 - Touro does not allow, nor tolerate any conduct by any Touro community member that may be regarded as retaliatory. Retaliation against any individual, whether said person submitted a complaint through the method described below, or for any other reason will not be tolerated.
- Title IX Coordinator
 - The Title IX Coordinator or his designee ("Title IX Coordinator") is trained and knowledgeable about enforcement, compliance, communication, and implementation of Touro's anti-harassment and anti-discrimination policy.
 - The Title IX Coordinator's contact information is as follows:
 - Elan Baram
Title IX Coordinator
Touro College
43 West 23rd Street, 7th Floor
New York, NY 10010
Phone: 212-463-0400 x5636
Email: Elan.Baram@Touro.edu

5.0 CONFIDENTIALITY

Touro has independent obligations to report or investigate potential misconduct, even if a complainant does not wish to initiate an official process. Therefore, absolute confidentiality cannot be promised with respect to a complaint of discrimination, harassment, sexual harassment, or retaliation received either through Touro's compliance hotline or otherwise. The phone number for the Touro hotline is 212-463-0400 x5330.

Touro wishes, however, to create an environment in which legitimate complaints are encouraged, while also protecting the privacy of all involved in an investigation. Complaints about violations of these policies will therefore be handled in confidence, with facts made available only to those who need to know in order for Touro to promptly and thoroughly investigate and resolve the matter.

With regard to Clery Act reporting and disclosure, Touro will not include identifying information about the victim and, will maintain as confidential any accommodations or protective measures provided to the victim (to the extent that maintaining such confidentiality would not impair the ability of Touro to provide the accommodations or protective measures).

6.0 PROCEDURES & IMPLEMENTATION

6.1 Duty to Report Violations

Any member of the Touro community including students, faculty, employees, and third-parties have a duty to report violations of this policy where individuals know, or should know, of accusations or actions which violate Touro Policy and will notify the Touro Title IX Coordinator of such violations promptly.

6.2 Formal Investigation and Resolution of Discrimination, Harassment, or Retaliation Complaints

6.21 Duty to Cooperate and Facilitate

All members of the Touro community are required to cooperate fully with any investigations of discrimination or harassment. A faculty member, staff member, or student who has relevant information and refuses to cooperate with an ongoing investigation will be subject to disciplinary action for, among other things, violations of the Touro College Code of Conduct and/or insubordination. Likewise, all Touro employees are required to ensure that complaints about discrimination, harassment, or retaliation are directed to the appropriate administrative office for evaluation and investigation. Touro is committed to conducting an inquiry that is thorough, prompt and impartial.

6.22 Complaint Process

Victims have the options to notify proper law enforcement authorities, including on-campus and local police or to decline to notify such authorities. Complaints concerning sexual harassment and/or sexual discrimination should be sent to Elan Baram, Title IX Coordinator, 43 West 23rd Street, 7th Floor, New York, New York, 10010, Elan.Baram@touro.edu (212-463-0400 x5636) or, alternatively, to the Chief Compliance Officer at compliance@touro.edu and 212.463.0400 x5330.

Complaints should be filed as soon as possible after the date of the alleged misconduct, and a written complaint is preferable.

A complaint, which must be submitted within the later of the following two dates: (a) thirty (30) days after the alleged misconduct; or, (b) the end of the semester in which the alleged incident occurred. A complaint should include the following information:

- a) Complainant's full name, home address, email, telephone number, and Touro Student/Employee ID number.
- b) Name of the person against whom the complaint was made, including job title or student status, if known.
- c) The protected status that is the basis for the alleged discrimination, harassment, or retaliation based on the complainant's gender.
- d) A clear statement of the facts that constitute the alleged discrimination, harassment, or retaliation, including dates on which the acts were committed and any information to identify witnesses.
- e) Complainant should include the term and year of his/her most recent active employment, academic, or student status within the university.
- f) A student who is seeking admission to Touro should include the term and year in which he/she sought admission to the university.
- g) The full name, address, and telephone number of complainant's advisor or supervisor, if any.
- h) The specific harm that resulted from the alleged act and the remedy sought.
- i) The complainant's signature and the date on which the complaint was submitted.

While prompt reporting is expected, complaints older than 30 days will be processed. However, if more than 365 days have elapsed since the day of the complaint, the complaint may not be processed. Every effort is made to conduct a thorough and speedy investigation. Several factors may impact Touro's ability to conduct a prompt investigation, including, but not limited to: the Complainant's accessibility or unresponsiveness, witness availability or unresponsiveness, the number of witnesses, the timing of the investigation (i.e. if an investigation is being conducted at a time when students are taking final exams or on recess), etc.

It is very important that the victim preserve any proof of the criminal offense. Such incidents will be reviewed and investigated in an expedient and professional manner.

6.23 Intake Interview

After receipt of a complaint, the Title IX Coordinator or his/her designee will meet with the complainant as soon as possible, usually within one week, but not later than thirty (30) days after receipt. The complainant must make himself/herself available to meet.

The meeting will be an intake interview where the Title IX Coordinator or his/her designee will inform the complainant about the investigation procedure and timeline. The complainant may sign a formal complaint form at that time (under the above guidelines) if he/she has not already done so. A complaint may proceed even in the absence of a signed written complaint.

6.24 Complaints about Students, Faculty, Other Employees or Third Parties

Upon receipt of a complaint, the Title IX Coordinator or his/her designee, shall investigate the circumstances of the complaint. This investigation may include documented interviews of the complainant, the person against whom the complaint is written, and witnesses with relevant knowledge, if any. Further, the investigation may include a review of relevant documents and any other evidence.

The Title IX Coordinator shall have thirty (30) days from the intake interview to complete the investigation of the event in question. Such thirty (30) days may be extended in the event that one of the following occurs:

- Availability or unavailability of a witness or relevant/material documents;
- Recalcitrance of a witness and/or any necessary party;
- Delay or other uncooperative actions of any necessary party;
- Numerosity of witnesses;
- Holidays and vacation periods;
- Any other unforeseeable events/circumstances.

Generally speaking an investigation may take less than 60 calendar days following receipt of the complaint. This may not be practicable in every investigation and may vary depending on the complexity of the investigation and the severity and extent of the harassment. The Title IX Coordinator shall report the findings of the investigation to a designated, impartial Fact Finder. The Fact Finder shall endeavor to issue a determination within fifteen day after receipt of the investigation file to determine and detail: (a) whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint, (b) a description of actions taken, if any, to prevent similar problems from occurring in the future, and (c) the proposed resolution of the complaint.

6.25 Preponderance of the Evidence

The greater weight of evidence in an investigation meaning that one party's evidence outweighs the evidence of the other.

6.26 Notice of Determination and Further Action

Both the complainant, the party who filed the complaint or the alleged target of the sexual harassment, and the respondent, the accused, shall be informed of the fact finder's decision within ten days of the conclusion of the fact finder's deliberation. Please refer to Section 5.0 for the policies regarding the confidentiality of this determination.

At the time of the receipt of this notice both parties may be informed of any actions or precautions that may be taken in response to the decision. Questions concerning these further actions should be addressed to the Title IX Coordinator Elan Baram (see Section 3.3 for contact information) or the appropriate office as required by the fact finder's decision.

6.3 Grade Appeals

Touro has a grade appeal process which is not circumvented by this policy. This procedure is not a substitute for a grade appeal. A grade appeal may be suspended until a determination has been made by the fact finder.

6.4 Discipline

Employees, faculty and students who violate Touro's policies may be subject to disciplinary action. Individuals who retaliate against someone who files a complaint, or against a witness, representative, or advocate for a complainant, may be subject to further disciplinary action.

Consistent with this Policy Touro may take prompt effective action to resolve any identified discrimination, and take steps to avoid a reoccurrence.

6.5 Availability of Counseling

As required under Title IX Touro College through its investigations and/or Title IX Compliance officer may offer its internal counseling services to any complainant who has begun the complaint process. It is ultimately complainant's decision of whether or not to accept the counseling service offered by Touro College.

7.0 **SANCTIONS FOR VIOLATIONS**

Student violators may be subject to the following or other sanctions, and remedial measures on a case-by-case basis (sanctions need not be progressive):

- **Warning:** A written reprimand putting the student on notice that he/she has violated the Code of Conduct. A copy of this warning is placed in the student's folder.
- **Probation:** A student may be placed on disciplinary probation for a definite period of time. While on probation, students may not hold office in Student Government Organizations, Clubs or Societies or represent the college in any capacity. Further violations while on probationary status will result in suspension or expulsion from the college.
- **Restitution:** A student may be required to pay restitution to the college or to fellow students for damages and losses resulting from his/her actions.
- **Suspension:** At any time during a student's enrollment at the college he/she may be suspended and barred from attending classes for a definite period, not to exceed two years. A student may not be automatically re-enrolled at the end of his/her suspension. He/she must apply to the Student Affairs Committee for re-enrollment.
- **Expulsion:** Touro may terminate a student's status at the college at any time.

Faculty and staff (part-time and full-time) who violate the policy may be subject to disciplinary sanctions either listed below or others on a case-by-case basis:

- **Censure:** A written reprimand, outlining the violation(s) of college policies, may be placed in the personnel file of individual violators.

- **Probation:** Faculty and/or staff may be placed on probation for a definite period of time up to a maximum of one year. In such instances, individuals may be required to enroll in a therapeutic counseling or treatment program.
- **Suspension:** Faculty and/or staff may be suspended from employment without pay for a period of time ranging from seven days to a maximum of one year.
- **Termination of Employment:** Faculty and/or staff may be dismissed from employment upon written notice by the Dean of Faculties (for faculty members) or the Vice President for Administration (all other employees).
- **Legal Action:** Faculty and/or staff may be turned over to law enforcement authorities for criminal prosecution and legal action.

In both cases for students, faculty and staff, the existence of a tiered system of disciplinary sanctions measures does not preclude Touro College from levying a heavy sanction, without first resorting to a lesser sanction. By way of illustration and not exclusion, Touro College may expel a student or terminate a staff member for a violation of policy without first issuing a warning or putting that student or employee on probation.

8.0 RETALIATION

Retaliation is any kind of reprisal, adverse action, or negative action taken against an individual because he or she has:

- Complained about alleged discrimination or harassment as defined above,
- Participated as a party or witness in an investigation relating to such allegations, or
- Participated as a party or witness in a proceeding regarding such allegations.

Retaliation can occur contemporaneously during the complaint process or subsequent to it, once the retaliator is aware of the recipient's participation in the process. Retaliation does not exist in the absence of an adverse action. An individual is protected from retaliation even when the complaint at issue is ultimately found to lack merit, as long as the complaint was made in good faith.

Touro does not allow, nor tolerate any conduct by any Touro community member that may be regarded as retaliatory. Retaliation against any individual whether said person submitted a complaint through the method described above in section 6.22 or for any other reason will not be tolerated.

9.0 EXTERNAL

REPORTING

Members of the Touro community are always subject to local, state, and federal laws, and nothing in these procedures is intended to limit or postpone the right of an individual to file a complaint or charge with appropriate federal, state, or local departments or agencies.

Among other options, students may contact the Office for Civil Rights of the U.S. Department of

Education for inquiries concerning the application of Title IX as well as the implementation of its regulations. The Office for Civil Rights can be contacted using the following information:

U.S. Department of Education
Office for Civil Rights
32 Old Slip, 26th Floor
New York, New York 10005
Phone (646) 428-3800
Fax (646) 428-3843
email: OCR.NewYork@ed.gov

10.0 POLICY ON MONITORING CRIMINAL ACTIVITY

Touro College monitors and records criminal activity by students at non-campus locations of student organizations officially recognized by Touro, including student organizations with non-campus housing facilities through local police agencies. Touro has a memorandum of understanding with the New York Police Department and the Suffolk County Police Department that they

11.0 PROGRAMS

The Office of the Dean of Students or the Vice-President of Division of Graduate Studies at each of the College's campuses/sites provides a formal educational program to increase awareness of sexual offenses, including rape, acquaintance rape, dating violence, domestic violence, sexual assault, stalking and other forcible and non-forcible sexual offenses. The programs include discussions of what constitutes these offenses, penalties for these offenses, definition of consent, prevention and awareness programs and ongoing prevention and awareness campaigns, risk reduction for students and faculty, safe and positive options for bystander intervention and security measures to protect against the occurrence of these offenses. Touro will advertise the date, time and content of these educational programs displayed in those sites regularly used by students and employees of Touro. Presentations may be made by speakers and appropriate members of Touro's faculty and staff. The training programs' topics may include but is not limited to:

- Protect Your Possessions and Identity
- Everyday Safety
- Common-Sense Defense
- Forming Healthy Relationships
- Dating Violence/Domestic Violence
- Controlling Behavior
- Racism, Classism, Religious, and Sexual orientation and Gender Identity (Discrimination)
- Sexual Misconduct/Assault
- Stalking

- Bystander Intervention
- Active Shooter Awareness
- Suspicious Package/Mail Awareness
- Faculty Orientation
- Student Orientation
- Resident Assistants Orientation
- Work Place Violence
- Risk reduction

12.0 RESOURCES FOR SEXUAL HARASSMENT VICTIMS

Touro provides resources for sexual harassment victims, regardless of whether the victims choose to report the crime to campus police or local law enforcement. Touro provides written notification to victims about options for, and available assistance in, changing academic, living, transportation, and working situations. These resources may include but are not limited to:

- Crisis Intervention Counseling
 - In-person or telephone services which support clients and their families in their effort to cope with the trauma of victimization and provide assistance in the recovery process.
- Emergency Assistance
 - Counselors work with clients to determine and meet immediate needs for mental health counseling, medical care, etc.
- Accompaniment
 - Security is available to provide support and escort around campus, and in certain instances to assist the individual in getting home.
- Others
 - Available community resources may be provided based on client's individual needs.

13.0 REGISTERED SEXUAL OFFENDERS

Touro makes available to the public over the Internet information about certain sex offenders required to register under Megan's Law.

These sex offender Internet registry laws can be found at the following addresses:

www.criminaljustice.state.ny.us/ (New York)

www.offender.fdle.state.fl.us/offender/homepage.do (Florida)

14.0 IMPLEMENTATION

This policy shall be implemented by the Department of Human Resources and the Office of Campus Security.

15.0 SOURCE DOCUMENTS

34 CFR 106.8 and 106.9

Revised Sexual Harassment Guidance: Harassment of Students By School Employees, Other Students, or Third Parties, dated January 19, 2001

“Dear Colleague Letter” from the Assistant Secretary, U.S. Department of Education, Office of Civil Rights, dated April 4, 2011.

“Dear Colleague Letter” from the Assistant Secretary, U.S. Department of Education, Office of Civil Rights, dated July 14, 2014.

16.0 WHO APPROVED THIS POLICY

This policy has been approved by the Department of Human Resources and the Office of Institutional Compliance.

The Office of Civil Rights (Region II) reviewed portions of this Policy on October 28, 2013.

17.0 HISTORY/REVISION DATES

Initiated: N/A

Last Review: October 28, 2013 (with OCR Region II)

Next Review: Periodically