

## Concordia University Texas

<b>Policy</b>		Effective Date:	March 15, 2015
DS03 –Prohibition of Discrimination and Harassment		Last Revision Date:	May 7, 2024
		External Review Date:	[Month Day, Year]
Corporate Owner:	President/CEO	Operational Owner:	VP of Administration
Post to Website:	Yes	Review by APC:	No
Website Address:	<a href="https://www.concordia.edu/student-life/dean-of-students/student-policies-and-processes.html">https://www.concordia.edu/student-life/dean-of-students/student-policies-and-processes.html</a>		
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### I. Purpose

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The purpose of this policy is to ensure the actions of Concordia University Texas employees, students, contractors, partners, visitors and governing officials are aligned with its values and consistent with local, state, and federal law by operating free of discrimination and harassment. Further, it is the purpose of this policy to ensure existence of a complaint, investigation, and adjudication process that is timely, fair, and impartial.

### II. Scope

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This policy applies to Concordia University Texas employees, students, contractors, partners, visitors, and governing officials, and anyone participating in an activity on Concordia’s property or within its programs.

This policy shall be applied to all issues related to discrimination and harassment when it is determined by Concordia University Texas at its sole discretion that its [Sexual Misconduct and Interpersonal Violence Policy](#) does not apply.

### III. Definitions

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This policy provides some definitions based on state or federal statutes and regulations. In some instances, both state and federal law provide overlapping definitions of the same subject matter. This policy shall be construed to provide those to whom it applies the maximum protection from discrimination required by law.

**Complainant:** An individual who has been subjected to discrimination or harassment or who makes a complaint of discrimination or harassment. The complainant also may be referred to as the accuser or the victim.

**Discrimination:** An act of treating similarly situated persons differently based on any legally protected status. For employees, this prohibition applies to the terms and conditions of their employment such as

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hiring, placement, promotion, termination, transfer, compensation, training, leaves of absence, and work environment. For students, this prohibition applies to university operations and activities including but not limited to admission to the university, a program, or activity, housing, academic assessment, discipline, scholarship and/or loan programs, co-curricular experiences, and athletics. Concordia University Texas, as a faith-based educational institution, aligned with The Lutheran Church – Missouri Synod, reserves the right to give preference in employment based on religion as permitted by Title VII of the Civil Rights Act of 1964, and such preference shall not be considered discrimination.

**Harassment:** Conduct, be it physical, verbal, or nonverbal, directed at a person because of any legally protected status that is, as determined by the university, so severe, persistent, or pervasive that the conduct: (1) effects a person’s ability to participate in or benefit from an educational activity, or creates an intimidating, threatening, hostile, or offensive educational or working environment; or (2) has the purpose or effect of substantially or unreasonably interfering with a student’s academic performance or an employee’s work performance; or (3) otherwise adversely affects a person’s educational or employment opportunities.

**Respondent:** An individual who has been accused of engaging in discrimination or harassment. The respondent may also be referred to as the accused, or the offender.

**Retaliation:** An adverse action taken by an individual against another individual who makes a complaint of discrimination or harassment, witnesses an incident of discrimination or harassment, reports an incident of discrimination or harassment, or participates in an investigation pertaining to a complaint of discrimination or harassment. For action to be considered adverse, it must be of the type that would dissuade a reasonable person from exercising their rights to file a complaint or participate in an investigation. Retaliation does not include petty slights or annoyances.

### IV. Policy Statements

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Concordia prohibits all acts of discrimination, harassment, and retaliation.

#### Reporting Discrimination and/or Harassment

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An individual who believes that they have been subjected to conduct that violates this policy may report the complaint to the Dean of Students (if the complainant is a student) or the VP of Finance and Administration (if the complainant is not a student). No individual shall be required to report prohibited conduct to the person who allegedly committed the conduct. If a complainant wishes to report an instance of discrimination or harassment by the Dean of Students or the VP of Finance and Administration, they may report to the Executive Vice President/Provost.

All employees, partners, vendors, contractors, and visitors who witness or otherwise become aware of discrimination or harassment or potential discrimination or potential harassment who are not the complainants in those scenarios, shall report it to the VP of Finance and Administration within 24 hours of receiving such knowledge. Reports may be made through Concordia's Early Alert online form. Reports shall be a complete account of everything the employee knows, witnessed, or has become aware of about the situation. Reports by employees may not be made anonymously.

A complainant may file a criminal complaint with law enforcement and a complaint with the university simultaneously. A complainant may also choose to file a complaint with the university without filing a law enforcement complaint or they may choose to file a law enforcement complaint without filing a complaint with the university. A complainant is not required to file a complaint. All complaints with the university shall be in writing unless the circumstances are such that it would be impractical or unreasonable to require a written complaint. Written complaints shall describe all incidents or actions considered by the complainant to be discrimination and/or harassment. Written complaints shall identify relevant dates and all witnesses and may specify a requested remedy. The written complaint shall be signed and dated by the complainant.

With the exception of communications to one of the university's licensed counselors or campus pastors, all communications regarding discrimination or harassment shall be considered non-confidential. The university will work to respect an individual's request for confidentiality as it responds to complaints or other knowledge related to discrimination or harassment, however, disclosure of certain information may be required in order to resolve the matter or prevent future discrimination or harassment.

### Supportive Measures

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All complainants and respondents in such situations as described in this policy shall be granted reasonably available supportive measures. Supportive measures shall be granted at no cost to the recipient, shall not be disciplinary or punitive in nature, and shall not unreasonably burden the other party.

### Complaint Resolution

Concordia shall follow the following process for resolving complaints of discrimination or harassment under this policy:

1. Upon receipt of a formal complaint, the VP of Finance and Administration, the Dean of Students, or the Executive Vice President/Provost (hereinafter the “Administrator”) will conduct a preliminary inquiry in order to assess (1) the institutional policy or policies potentially invoked by the alleged conduct, (2) the appropriate university official to respond to the complaint, and (3) the best path for resolution of the complaint.
  - a. The Administrator may dismiss the complaint if it is determined that the alleged conduct does not constitute discrimination or harassment under this policy.
2. The Administrator may determine that an informal resolution is an appropriate mechanism of resolution based on the information provided about the incident. Options for informal resolution include, but are not limited to, mediation, restorative justice, or other forms of alternative resolution. If informal resolution is determined to be appropriate, the Administrator or their designee will meet separately with both parties to discuss an informal resolution based on the information available. If the proposed resolution satisfies the University’s obligation to provide a safe and non-discriminatory environment for the University community, the resolution will be implemented, and the matter will be closed. Human Resources and/or Student Affairs will maintain records of all reports and conduct referred for informal resolution.
3. The Administrator may determine that a formal resolution is an appropriate mechanism of resolution based on the information provided about the incident.
  - a. At their discretion, the Administrator may appoint an investigator to investigate allegations of discrimination and harassment or may conduct the investigation themselves.

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4. The investigation will be conducted in an appropriate manner considering the circumstances of the case. The investigation may include, but is not limited to conducting interviews of the complainant(s), the respondent(s), and any witnesses (witnesses must have observed the acts in question or have information relevant to the incident); reviewing law enforcement investigation documents, if applicable; reviewing personnel files, if applicable; and gathering, examining, and preserving other relevant documents and physical, written, and electronic evidence (including text messages and other phone records, social media posts, security camera footage, etc.). The parties will be afforded an opportunity to identify and present relevant witnesses and evidence to the investigator, as well as identify witnesses who may have relevant information.
5. The investigator (who may also be the Administrator) will make a conclusion as to whether or not the respondent is responsible for violating any provision of this policy. The standard of proof shall be the preponderance of the evidence. The investigator’s findings and conclusions shall be shared with the Administrator in a written report. If the respondent is found responsible for violating a provision of the policy, the finding will be referred to the appropriate party for corrective action.
  - a. For policy violations by employees, the VP of Finance and Administration shall consult with the respondent’s supervisor and unit VP to determine corrective action up to and including termination of employment.
  - b. For policy violations by contractors, vendors, or others doing business with the university, the VP of Finance and Administration shall consult with the contracting department to determine the appropriate resolution, up to and including removal of the respondent from the university’s account and termination of the contractual relationship.
  - c. For policy violations by students, the Dean of Students shall take corrective action through sanctioning as outlined in the Student Code of Conduct.
6. Appeals of findings of responsibility against Student-Respondents will be handled pursuant to the Student Code of Conduct Appeals Process contained in the University’s Student Handbook. Appeals of findings of responsibility against Employee-Respondents will be handled pursuant to the Employee Handbook available through Human Resources.

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### Additional Policy Statements

Knowingly filing a false complaint is prohibited and may result in corrective action up to and including termination (for employees) and expulsion (for students).

Concordia prohibits retaliation as defined in this policy.

### **V. Additional References**

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[Sexual Misconduct and Interpersonal Violence Policy](#)