

Unlawful Harassment

It is the policy of Caltech to provide a work and academic environment free of unlawful harassment (“harassment”) and retaliation. Harassment is the creation of a hostile or intimidating environment in which inappropriate conduct, because of its severity and/or persistence, is likely to interfere significantly with an individual’s work or education, or affect adversely an individual’s living conditions. **Harassment in any form, based on sex, race, color, age, national origin, ethnicity, ancestry, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information, pregnancy, marital status, religion, gender, gender expression or identity, sexual orientation, protected veteran or disabled veteran status, or any other characteristic protected by state or federal laws, is prohibited, as are all forms of sexual intimidation exploitation, and violence.** All faculty, students, staff, postdoctoral scholars and others participating in Caltech’s educational programs and activities, whether they take place in Caltech facilities, or elsewhere, should be aware that Caltech does not tolerate any conduct that constitutes unlawful harassment or retaliation. Caltech promptly and thoroughly investigates complaints of harassment, and takes appropriate action, including disciplinary measures, when warranted.

Caltech requires that any employee, who is responsible for directing or supervising other Caltech employees or evaluating the work of students, to participate in training regarding unlawful harassment, including sexual harassment, at least once every two years.

Examples of Unlawful Harassment

Behavior evidently intended to dishonor such characteristics as race, gender, gender expression or identity, national origin or ethnic group, religious belief, sexual orientation, age, or disability is contrary to the pursuit of inquiry and education and may be discriminatory harassment violative of law. Some examples of incidents that may constitute unlawful harassment are:

- An adviser tells a minority student not to take a certain course because the adviser says that other minority students have had difficulty in the course.
- A disabled individual is not included in an off-site outing because of lack of mobility.
- A supervisor assigns only menial tasks to a minority staff member whose job and qualifications merit more complex work.
- An older employee is disciplined for insubordination when the same conduct is tolerated from younger employees.
- A student tells a racially offensive joke within a study group session with other students.

- A professor makes repeated comments in a class that women are not as good at science and engineering as men.

However, in order to make an accurate judgment as to whether incidents are unlawful, the full context in which the actions were taken or statements made must be considered. Conduct of this type, therefore, will prompt an investigation, since subjecting someone to harassment or requiring submission to it as a condition of employment, evaluation, compensation, or advancement is a serious offense.

Sexual Harassment is a Form of Unlawful Harassment

Sexual harassment is unlawful, violating Title VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Code, and California state law.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education.
2. Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting that individual.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile, or offensive environment.

Sexual harassment by peers, coworkers, managers or third parties such as nonemployees, vendors, or contractors is a form of prohibited sex discrimination where the objectionable conduct creates a hostile educational or work environment. All individuals are protected against sexual harassment regardless of gender. Moreover, sexual harassment is prohibited regardless of the sex of the harasser, e.g., even where the harasser and the person being harassed are members of the same sex.

Examples of Sexual Harassment

Some examples of conduct that may constitute sexual harassment are:

- Unwanted sexual advances.
- Offering employment or research benefits in exchange for sexual favors.
- Making or threatening reprisals after a negative response to sexual advances.
- Making sexual gestures, or displaying sexually suggestive objects, pictures, cartoons, posters, calendars, or computer screens.

- Downloading, viewing, and/or sharing of pornography.
- Making or using derogatory comments, epithets, slurs, or jokes of a sexual nature.
- Verbal sexual advances or propositions.
- Using Caltech resources (including electronic resources) or time to create or obtain sexually explicit materials that are not directly related to legitimate business of Caltech.
- Surreptitiously taking pictures or videos of an individual's body for sexual purposes.
- Verbal abuse of a sexual nature, graphic comments about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes, electronic mail messages, or invitations.
- Unwelcome, intentional, and/or repeated touching of a sexual nature.
- Stalking.
- Ostracizing individuals from group activities because of their sex or because they objected to harassing behavior.

Even when relationships are consensual, care must be taken to eliminate the potential for harassment or other conflicts. It is not acceptable to treat other employees, who are not in the consensual relationship, less favorably. Caltech practice, as well as more general ethical principles, prohibits individuals from evaluating the work or academic performance of those with whom they have amorous and/or sexual relationships, or from making hiring, salary, or similar decisions.

Upon learning about such a relationship, the supervisor, dean, or division chair has the authority and responsibility to review and remedy any direct administrative or academic relationship between the involved individuals.

When a consensual personal relationship arises and a power differential exists, consent may not be considered a defense in a claim that Caltech's unlawful harassment policy has been violated. The individual in the relationship with greater power will be held responsible.

Reporting and Resources

Anyone who witnesses or experiences or is otherwise aware of conduct that he or she believes to be in violation of this policy including retaliation is urged to contact Caltech immediately. For a list of offices to which violations of this policy can be reported, please see the Procedures attached. Caltech also offers members of the Caltech community the choice of seeking confidential counseling outside Caltech's formal

mechanisms for resolving unlawful harassment complaints. These confidential counseling services are intended for the personal benefit of the individual and offer a setting where various courses of action can be explored. For a list of confidential resources, please see [the Title IX website](#) or [Security website](#), or for JPL employees, the [JPL Employee Assistance Program](#) website.

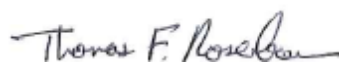
Individuals also may report harassment anonymously by contacting the Caltech Hotline at (626) 395-8787 or (888) 395-8787 or the JPL Ethics Hotline at (818) 354-9999 or (866) G0JPLEO, or by submitting a [compliance hotline form](#).

In addition, an employee who believes he or she has been harassed has the right to file a complaint with the federal [Equal Employment Opportunity Commission](#) or the [California Department of Fair Employment and Housing](#) which have the authority to remedy violations. Employees, students and others participating in Caltech's educational programs and activities may file complaints with the U.S. Department of Education Office for Civil Rights (415) 486-5555 or ocr.sanfrancisco@ed.gov or (800) 421-3481 or OCR@ed.gov.

No member of the Caltech community will be retaliated against for making a good-faith report of alleged harassment or for participating in an investigation, proceeding, or hearing conducted by Caltech, or by a state or federal agency.

Investigations

Caltech is firmly committed to resolving allegations of harassment fairly and quickly. To ensure that open and forthright dialog occurs, attorneys are not permitted to accompany individuals during interviews, nor are interview sessions recorded in any manner. Those interviewed are always entitled to submit a written statement if they so choose or to consult with others regarding the interview, keeping in mind that these proceedings must be kept as confidential as possible.



Thomas F. Rosenbaum
President

Procedures for Investigating and Resolving Unlawful Harassment Complaints at Caltech

There are several courses of action available to address complaints of harassment, each with different consequences and implications with respect to confidentiality and resultant action. These options are not mutually exclusive. The complainant may choose which course to follow and may submit a formal complaint at any time.

Informal Options

An individual who believes that he or she has been harassed may choose to resolve his or her concerns informally. In general, the goal of the informal options is to quickly end offending behavior without utilizing disciplinary action. Individuals with an official status at Caltech, such as faculty, managers, or supervisors, are expected to follow up with the complainant to make sure that the issue has indeed been resolved. Mutually agreeable administrative changes are sometimes possible to ease an uncomfortable situation. Individuals are not required to try to resolve their concerns informally before making a formal complaint.

Complainants should consider at the outset whether such changes might be desirable. Informal options include:

- Talking personally with the offending individual, or writing a letter asking him or her to stop. This is a personal step taken solely among the relevant parties.
- Speaking to members of the Student Counseling Center (SCC), the Staff and Faculty Consultation Center (SFCC), or the Caltech Center for Diversity on campus and the Employee Assistance Program (EAP) at JPL. Such conversations are confidential and are not communicated to individuals within or outside Caltech.
- Resolving the complaint informally with the help of a third party who has a faculty, supervisory, or managerial position at Caltech. The goal here is also to allow the parties to resolve complaints without an investigation and without elevating the complaint within Caltech. However, a person in one of these official positions is obligated to follow up to be sure the situation has been resolved. This action might include referring the complaint to an appropriate individual within Caltech or sharing some of this information with other persons holding positions of responsibility at Caltech.

Formal Complaints

A formal complaint is a request that Caltech take action. The complainant may file a formal complaint by reporting the offending conduct to individuals holding any of the following positions: Caltech's Title IX Coordinator; for campus: Provost, Vice Provost(s), Dean(s), Associate Deans, Student Affairs Directors,

Master of Student Houses, Director of Employee & Organizational Development (EOD), Employee Relations Consultants, Associate Vice President of Human Resources, Division Chair(s), and Division Administrator(s); for JPL: Director for Human Resources, Deputy Director for Human Resources, Employee Relations Manager and Employee Relations Consultants or other JPL Managers.

The complaint is then taken to the Provost, Director of EOD, or Dean(s) as appropriate (for faculty, postdoctoral scholars and staff, and students, respectively) at campus or the Employee Relations Manager at JPL. This individual initiates an investigation, described more fully below. Formal complaints of harassment can be made orally or in writing.

Caltech may initiate an investigation about an incident if it becomes aware that inappropriate conduct may have occurred. Caltech also will not delay its investigation of complaints of inappropriate conduct because of a law enforcement investigation.

Concerns about possible harassment may also be reported anonymously by calling the Caltech compliance hotline at (626) 395-8787 or (888) 395-8787 or the JPL Ethics Hotline at (818) 354-9999 or (866) G0JPLEO, or by submitting a compliance [hotline contact form](#).

Protection of Complainant and Respondent

For purposes of this procedure, a complainant is the person filing a complaint; and the respondent is the person responding to the complaint. Caltech will take measures to protect the rights of both the complainant and the respondent as appropriate.

Retaliation against any member of the Caltech community who reports an incident of unlawful harassment is strictly prohibited. If interim safety measures, administrative and/or academic changes are needed in order to protect the rights of either party at any stage of the process, they will be made by the appropriate administrators. These changes should be discussed with the appropriate parties: Provost, EOD Director, Dean, Associate Deans, Associate Vice President for Human Resources on campus or Director for Human Resources at JPL. Changes might include transfer of supervisory or evaluative responsibility regarding grading, supervision, tenure review, or letters of recommendation, changes to office assignments and/or counseling. For students, changes might include the complainant's option to avoid contact with the respondent, and changes to classes and/or housing. When taking steps to separate a complainant and respondent, Caltech will endeavor to minimize the burden on the complainant. Care will be taken to protect both parties with the greatest degree of confidentiality. Each party may have an advisor or support person present when reporting, or responding to, claims of harassment. However, the proceeding is an internal Caltech function and, therefore, the presence of legal counsel is not permitted by anyone during the conduct of these procedures.

Details of Formal Complaint Process

Caltech has put in place the following process to ensure that all investigations of harassment are handled promptly, thoroughly, and impartially:

- Formal complaints of harassment can be made orally or in writing.

- Complaints should be brought to the attention of one of the following individuals: Caltech's Title IX Coordinator; for campus: Provost, Vice Provosts, Deans, Associate Deans, Student Affairs Directors, Master of Student Houses, EOD Director, Employee Relations Consultants, Associate Vice President for Human Resources, Division Chairs, or Division Administrators; for JPL: Director for Human Resources, Deputy Director for Human Resources, Employee Relations Manager, Employee Relations Consultants or other JPL Managers. They will ensure that complaints reach the Provost, the EOD Director, or the Dean(s) at campus and the Employee Relations Manager at JPL, as appropriate.
- The purpose of the investigation is to determine the facts relating to the complaint.
- All parties involved will receive a fair process and be treated with care and respect.
- The Caltech investigation will occur independently from any legal/criminal proceedings that may take place. Caltech may defer fact gathering for a short time during the initial stages of a criminal investigation.
- The individuals involved in the investigation will respect the privacy of the complainant, respondent, and that of all parties involved while conducting a thorough review of the complaint.
- Investigators are trained annually in issues related to harassment, and are trained how to conduct an investigation process that protects the safety of all involved and promotes accountability.
- The investigator should be from the same areas as the respondent. For example, if a student makes a complaint against a faculty member, a representative appointed by the Provost's office will lead the investigation. If a student files a complaint against another student, a representative appointed by the appropriate Student Affairs office will lead the investigation. If a staff member files a complaint against another staff member, a representative appointed by the EOD Director will lead the investigation.
- Within a reasonable length of time the respondent will be notified of the nature of the complaint, and an investigation will begin. If administrative changes are needed to protect the rights of the complainant or respondent during the investigation, the appropriate administrators shall see that they are made.
- Caltech will investigate all complaints consistent with its obligations under applicable law. For complaints solely covered by Title IX of the Education Code, when meeting with the complainant, the investigator(s) will seek consent to proceed with the investigation. If the complainant requests confidentiality or asks that the complaint not be pursued, Caltech will still take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If the complainant refuses to have his/her name disclosed to the respondent, the investigator(s) will explain that Caltech's ability to respond may be limited. If the complaint includes allegations that may constitute a possible crime, the investigator(s) will notify the complainant of his/her right to file a criminal complaint.

- The complainant and respondent will be informed of the relevant procedures, and may object to the suitability of the investigator(s) by notifying the appropriate Caltech official in writing.
- Caltech's Nondiscrimination and Equal Employment Opportunity (EEO), Unlawful Harassment, and Sexual Violence policies will be reviewed with both parties and copies will be provided to them.
- The complainant and respondent will be informed that Caltech will not tolerate retaliation, will take steps to prevent retaliation, and will take strong responsive action if retaliation occurs. The complainant and respondent will be advised to notify Caltech immediately if any retaliation occurs. They should immediately notify any of the individuals to whom a complaint can be made if anyone associated with the matter is under continuing threat or is being subjected to retaliation.
- The investigator(s) will summarize for the respondent the evidence in support of the complaint to allow the respondent the opportunity to reply.
- The investigation will be treated as confidential to the extent possible and all parties will be advised to maintain confidentiality. Caltech administrators will be informed on a need-to-know basis. Caltech will make reasonable and appropriate efforts to preserve the complainant's and respondent's privacy and protect the confidentiality of information. However, because of laws relating to reporting and other state and federal laws, Caltech cannot guarantee confidentiality, except where the report of harassment is made to a confidential resource.
- The complainant and respondent will be given equal opportunity to present their case separately to the investigator(s), to suggest others who might be interviewed, and to present other evidence. Subsequently, the investigator(s) can, if appropriate, interview other parties to reach findings and conclusions.
- All parties who participate in investigative interviews may submit written statements. Investigatory meetings will not be audio recorded.
- Both parties will be kept informed of the status of the investigation.
- All formal complaints will be investigated within a reasonable length of time after the complaint has been made, normally within 60 days. An individual, a committee, or an outside consultant may conduct the investigation.
- Investigative files are confidential and will be maintained in the appropriate administrator's office.
- Exceptions to or modification of these procedures can be made by the Provost, Dean or Associate Deans, or Associate Vice President for Human Resources at campus or by the Employee Relations Manager at JPL, if required for fairness or practical necessity. Exceptions must be made in writing and notice provided to both the complainant and respondent. Other administrative issues regarding the conduct of the investigation will be decided by the Provost, Dean(s), and Associate Vice President for Human Resources at campus or by the Employee Relations Manager at JPL, as needed.

Findings and Recommendations

The investigator(s) will use the preponderance of evidence standard in determining whether prohibited harassment occurred. A preponderance of the evidence means that it is more likely than not that the incident occurred. When the investigator(s) is presented with two different but plausible versions of the incident, credibility determinations may affect the outcome.

The investigator(s) will make a recommendation to the relevant Dean, Provost, EOD Director, or Director for Human Resources at JPL, as appropriate, within 15 days of the completion of the investigation, regarding the charges and the appropriate consequences, including disciplinary action against the respondent, and steps to prevent the reoccurrence of any harassment and to correct any discriminatory effects on the complainant and others, if appropriate.

The conclusions that the investigation might reach include, but are not limited to, the following possibilities. In each case the investigator(s) should summarize the evidence that supports the conclusion.

1. A violation of Caltech's Nondiscrimination and EEO, Unlawful Harassment or Sexual Violence Policies occurred.
2. Inappropriate behavior occurred, but did not constitute a violation of Caltech's policies on discrimination, harassment, and/or sexual violence. For example, the respondent improperly used the power of his or her position, used poor judgment, or violated applicable standards of ethical behavior.
3. The charges were not supported by the evidence.
4. The charges were brought without any basis or without a reasonable, good faith belief that a basis existed.

Resolution

As soon as practicable after receiving the findings of the investigator(s), management or administration shall review the findings with the dean(s), manager(s), division chair(s) and others as necessary. Within 7 (seven) days after receiving the recommendation, both the complainant and respondent shall be informed in writing, concurrently, of the results and their right to appeal. Any sanctions imposed against the respondent will be disclosed consistent with applicable law, including FERPA, Title IX of the Education Code, and the Clery Act.

If a violation of Caltech's nondiscrimination and EEO, harassment or sexual violence policies has occurred, appropriate sanctions will be imposed if possible. Depending on the severity of the case and role at Caltech, possible sanctions include, but are not limited to:

- Verbal counseling/training
- A formal written warning placed in the respondent's file
- Suspension of the right to accept new graduate students or postdoctoral scholars
- Transfer of advisees and/or removal from positions of administrative responsibility

- Removal from student housing
- Removal from a supervisory position
- Enforced leave of absence/suspension
- Termination of employment
- Expulsion
- Permanent dismissal

If the respondent was not found to have violated Caltech policy on harassment, but the investigation concludes that he or she violated another Caltech policy, or committed some other wrongful or improper act, appropriate sanctions will be imposed. Effective corrective action may also require remedies for the complainant and/or the broader student population.

Appeals

Appeals must be in writing and submitted within 30 days of notification of the decision. The appeal must be on the grounds of improper procedure, an arbitrary decision based on evidence in the records or new evidence that was unavailable at the time of the investigation. Both the complainant and respondent will be informed, in writing, of the outcome of the appeal.

Faculty appeals can be made to the Provost. Appeals by a faculty member of decisions or actions by the Provost that affect academic freedom and tenure can be made to the Faculty Committee on Academic Freedom and Tenure, as indicated in Chapter 4 of the *Faculty Handbook*.

Student appeals can be made to the Vice President for Student Affairs or his or her designee.

Staff and postdoctoral scholar appeals can be made to the Associate Vice President for Human Resources or his/her designee at campus or to the Deputy Director for Human Resources or his/her designee at JPL.

Further Complaints

If the corrective action does not end the harassment, or if any retaliatory action occurs, the complainant should immediately notify the Title IX Coordinator, or for campus, the Provost or Division Chair, Dean or Associate Deans, or EOD Director; or for JPL, the Employee Relations Manager. In such cases, the complainant has the right to file another complaint.

Related Policies and Procedures:

- [Nondiscrimination and Equal Employment Opportunity](#)
- [Sexual Violence Policy](#)
- [Violence Prevention](#)