1.0 **POLICY**
California Lutheran University ("University") strives to foster a work and learning environment that is inclusive of all people. The University is committed to offering programs, services, and trainings that assist all members of the community in developing cultural awareness and intercultural competencies. Additionally, the University strives to reduce and ultimately eliminate any inequities that make it difficult for members of under-served groups to meet their full potential.

The University prohibits harassment, biased conduct, and discrimination on the basis of race (including hair texture and protective hair styles), ethnicity, color, religion, creed, ancestry, national origin, age, medical condition (as defined California law), physical or mental disability, sexual orientation, sex/gender, gender identity, gender expression, genetic information, marital status (including registered domestic partner status), military and veteran status, lawful change of name, Social Security Number or federal employment authorization document, receipt of Medi-Cal coverage, California driver’s license with a “federal limits apply” notation, or any other characteristic protected by local, state or federal law. Discrimination, bias or harassment on the basis of “sex” includes harassment or discrimination on the basis of pregnancy, childbirth, or related medical conditions, breastfeeding, and conditions related to breastfeeding. Sexually harassing conduct need not be motivated by sexual desire and can occur between persons of any sex or gender. This Policy extends to conduct not explicitly covered under the University’s Policy on Sexual Harassment Prohibited by Title IX.

The University prohibits retaliation. Retaliation occurs when a member of the community takes or attempts to take an adverse action against someone who files a complaint or participates in a conduct-related review process as a witness or other party. The University will neither retaliate, nor tolerate retaliation against individuals who make (either internally or to an outside agency) good faith reports about discrimination, harassment, biased conduct, or retaliation in the workplace. Similarly, the University will neither retaliate nor tolerate retaliation against anyone who participates in any workplace investigation under this policy.

2.0 **PURPOSE**
The University is committed to an inclusive workplace in which all people are treated with respect, dignity, justice, and compassion.

The University does not tolerate unlawful discrimination, bias or harassment (as defined by this policy) of its employees. The term “employee” shall include unpaid interns, volunteers, and persons providing services pursuant to a contract. The University will take appropriate and immediate action in response to complaints or knowledge of such behaviors while preserving the rights of those against whom allegations have been made to receive procedural protections in the fact-finding and decision-making process.
3.0 DEFINITIONS

Discrimination is defined as special or disparate treatment based on the characteristics listed in the above policy statement. The University prohibits discrimination based on a legally protected category. This is distinct from harassment. Discrimination occurs when a supervisor or fellow employee treats another employee differently based on a protected category while performing acts that are in the course and scope of employment of the person committing the alleged discrimination. Complaints of discrimination shall be processed under this policy unless otherwise specified.

Harassment is any unwelcome behavior that is based on a protected category and reasonably regarded as offensive. Typically, such behavior may do one or more of the following:

(a) Sufficiently offend, humiliate, distress, or intrude upon its victim, so as to disrupt the victim’s emotional tranquility in the workplace, or
(b) Affect the victim’s ability to perform the job as usual, or
(c) Otherwise interferes with and undermines the victim’s personal sense of well-being.

A single incident of harassing conduct may create a hostile work environment if the harassing conduct has unreasonably interfered with the victim’s work performance or created an intimidating, hostile, or offensive work environment.

A person’s intent are not germane to this policy. This means that the policy is violated when an employee, whether a recipient or mere observer, is actually offended by comments or conduct based on any protected category, even if the speaker or actor did not mean to offend (provided such comments or actions are deemed offensive by a reasonable person).

Examples of conduct based on a protected category that may constitute harassing conduct may include but are not limited to:
- Making gestures, threats, derogatory comments, or slurs that may be reasonably regarded as offensive to individuals in a particular group
- Bullying behavior that is threatening, intimidating, verbally abusive or results in other disruptive actions in the workplace
- Displaying derogatory objects, photographs, cartoons, calendars, or posters
- Displaying symbols or slogans associated with hate groups

Harassment also includes biased conduct which is defined as conduct, speech or expression that may be either conscious or intentional, or outside the level of awareness of the employee, that insults or demeans another person on the basis of a protected category. Examples of biased conduct include verbal threats or abuse, intimidation, or consistent disregard of the rights and welfare of any member of the University community. Hate speech, racial slurs, derogatory comments, offensive terminology, and cultural appropriation that demeans or disparages are also prohibited as part of this policy.

The University has a compelling interest in free inquiry and the collective search for knowledge and thus recognizes principles of academic freedom as a special area of protected speech. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or State anti-discrimination laws. Two areas require special clarification: faculty speech in the teaching context and faculty speech as a public citizen.
Speech in the Teaching Context. Conduct that is legitimately related to the course content, teaching methods, scholarship of an individual faculty member, or the educational expression of an individual faculty member in the teaching context shall not constitute harassment under this policy unless the conduct is (1) not germane to the subject matter and (2) reasonably can be regarded as resulting in harassment as defined above. Difficult conversations around identity, including identities that are associated with protected categories, occur in higher education settings such as the classroom. Such conversations are not automatically defined as discriminatory or harassing. In an academic setting, consistent with academic freedom, the University aims to give instructors latitude in determining the appropriate content, presentation and discussion of academic material.

Speech as Citizens - No provision of this Policy shall be interpreted to prohibit conduct that is legitimately related to the scholarship or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of faculty (including the supervision of student work) in public forums. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or State anti-discrimination laws. Speech as citizens is subject to the section of this policy entitled “Scope.”

As set forth in the University’s Academic Freedom policy, faculty members are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence, they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and explicitly indicate that they are not speaking on the behalf of the institution.

Sexual harassment, a particular type of harassment, also requires special clarification. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when submission to such conduct:

- is made a condition of employment or employment decision (Quid Pro Quo) OR
- meets the definition of harassment as stated above (Hostile Work Environment).

Examples of conduct that may constitute sexual harassment may include but are not limited to:
- Unwanted physical touching
- Telling sexually explicit jokes or stories
- Making comments or gestures reasonably regarded as lewd or offensive
- Displaying sexually suggestive objects, cartoons, or pictures
- Sending sexually explicit messages by letter, notes, electronic mail, social media posting, or telephone
- Making unwelcome comments reasonably regarded as offensive about one’s body, physical appearance, or clothing
- Frequent use of unwelcome terms of endearment
- Repeatedly asking an individual for a date or meetings outside of working hours after they have indicated an unwillingness to go.

The University also prohibits sexual assault, dating violence, domestic violence and stalking based on sex by and against its employees. If this conduct does not fall under the jurisdiction of the University’s Policy on Sexual Harassment Prohibited by Title IX or the Student Conduct Code, the University reserves
the right to address this conduct under the procedures of this policy, using the same definitions of prohibited conduct and the definition of affirmative consent as articulated in the *Policy on Sexual Harassment Prohibited by Title IX*. In these cases, as required by the Violence Against Women Act, the parties shall be entitled to have an advisor of choice at any meetings or proceedings and to receive simultaneous notice of the outcome and results and the available appeal procedures. The University’s victim’s resource packet is available from the Title IX Coordinator.

In addition to the conduct prohibited by the *Policy on Sexual Harassment Prohibited by Title IX*, there are other forms of prohibited conduct. This includes: harassing conduct by an employee (e.g. physical, verbal, graphic or written) that is so sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of a student to participate in or benefit from the services, activities or privileges provided by the University. Employees are additionally prohibited from engaging in “sexual harassment” of students, which is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions: (a) submission to the conduct is explicitly or implicitly made a term or a condition of a student’s employment, academic status, or progress; (b) submission to, or rejection of, the conduct by a student is used as the basis of academic decisions affecting the individual; (c) the conduct has the purpose or effect of having a negative impact upon the student’s academic performance, or of creating an intimidating, hostile, or offensive educational environment; (d) submission to, or rejection of, the conduct by a student is used as the basis for any decision affecting a student regarding benefits and services, honors, programs, or activities available at or through the educational institution.

**Retaliation** occurs when a member of the community takes or attempts to take an adverse action against someone who files a complaint or participates in a conduct-related review process as a witness or other party. The University will neither retaliate, nor tolerate retaliation against individuals who make (either internally or to an outside agency) good faith reports about discrimination, harassment, biased conduct, or retaliation in the workplace. Similarly, the University will neither retaliate nor tolerate retaliation against anyone who participates in any workplace investigation under this policy.

**4.0 STATEMENTS OF NON-DISCRIMINATION**

The University’s statements of non-discrimination are published here as required by law and state as follows:

**Title IX Statement:** The University does not discriminate based on sex in any program or activity, including the admissions process and employment, and is prohibited from such discrimination by Title IX and 34 CFR Part 106. Complaints of discrimination based on sex or questions about Title IX can be directed to the University’s Title IX Coordinator or to the U.S. Assistant Secretary of Education, or both. To make a report or complaint of sex discrimination or sexual harassment, or for any questions related to Title IX, please contact:

Title IX Coordinator  
Academic Services Building  
(805) 493-3630  
titleix@callutheran.edu
**Section 504 Statement:** The University does not discriminate based on disability in any program or activity, including the admission process and employment, and is prohibited from such discrimination by Section 504 of the Rehabilitation Act. Denial of an accommodation and disability-discrimination complaints may be filed under this policy. Complaints of disability discrimination can be directed to the University’s Section 504 Coordinator or to the U.S. Assistant Secretary of Education, or both. To make a report or complaint of discrimination, please contact:

For Student Matters:
Associate Provost of Academic Services and Registrar
Location
Phone
Email

For Employee Matters:
Assistant Director of Human Resources
Human Resources Department
Phone
Email

Questions or complaints about Title IX or Section 504 may be directed to the assistant secretary for civil rights:
Office for Civil Rights,
San Francisco Office
U.S. Department of Education
50 United Nations Plaza
San Francisco, CA 94102
Telephone: (415) 486-5555
Facsimile: (415) 486-5570
Email: OCR.SanFrancisco@ed.gov

**Title VI Statement:** The University does not discriminate based on race, color or national origin in any program or activity, including in the admissions process and employment, and is prohibited from such discrimination by Title VI. To make a report or complaint of discrimination or for any questions related to Title VI, please contact:

For Student Matters:
Associate Provost for Global Engagement
Center for Global Engagement
Phone
Email

For Employee Matters:
Assistant Vice President for Human Resources
Human Resources Department
Phone
Email

**Age Discrimination Act of 1975 Statement:** The University does not discriminate based on age (over 40) in any program or activity, including in the admissions process and employment and is prohibited from such discrimination by the Age Discrimination Act of 1975. To make a report or complaint of discrimination or for any questions related to the Age Discrimination Act of 1975, please contact:

For Student Matters:
Associate Provost for Global Engagement
Center for Global Engagement
Phone
Email

For Employee Matters:
Assistant Vice President for Human Resources
Human Resources Department
Phone
Email
5.0 **SCOPE**

Every member of the University including employees, students, interns, volunteers or other business contacts are responsible for carrying out this policy. Any other persons or third parties with whom the University employees have contact through their employment, including independent contractors, are responsible for carrying out this policy. This policy applies to conduct that occurs: (1) on-campus or on any University property; or (2) off-campus, if: (a) the conduct occurred in connection with a University activity, program or event; or (b) the conduct has or reasonably may have the effect of creating a hostile educational or work environment for a member of the University community. Each department shall take steps necessary to implement this policy in accordance with the provisions contained herein. Student complaints of sexual harassment may also be addressed in the University policy titled *Policy on Sexual Harassment Prohibited by Title IX* or the *Student Conduct Code*.

Any person filing a complaint under this policy in bad faith will be subject to disciplinary action.

6.0 **PROCEDURES**

Every University employee upon hire and annually thereafter is required to review the written policy on Harassment, Discrimination, Biased Conduct and Retaliation Prohibition and acknowledge they have read and understand its content. Supervisors undergo mandatory sexual harassment prevention training within six months of initial employment and biennially thereafter. Additionally, all non-supervisory employees must complete a one-hour workplace sexual harassment prevention training within six months of their initial employment and biennially thereafter. Because of their responsibilities under the law, any manager or supervisor who witnesses or hears about conduct that may constitute discrimination, harassment, or retaliation prohibited by this policy must immediately report the conduct to *Incident Response Team* utilizing the *Harassment, Discrimination, and Bias Reporting System*.

California Lutheran University encourages employees, as defined above, who believe they are subject to conduct prohibited by this policy to, whenever possible, promptly advise the offender that their behavior is unwelcome/unacceptable and request that it stop. The University recognizes that an individual may prefer to pursue the matter through the *Harassment, Discrimination, and Bias Reporting System*.

The University encourages the prompt reporting of complaints or concerns so that rapid and constructive action can be taken. Individuals who feel they have been the victim of or witness such conduct should promptly report the complaint. However, delayed reporting will not preclude the University from taking appropriate remedial action. Reports, whenever possible, should fully set forth the facts which give rise to the complaint, including the names and titles of all persons involved.

Any good faith report of harassment (including biased conduct), discrimination, or retaliation that is brought to the University’s attention will be reviewed and resolved even if the complaint or concern comes to light in a manner that is not addressed as outlined in this section. (The Ombudsperson, Pastor, and Counseling Centers are confidential resources for purposes of this policy and any complaint of behavior covered by this policy that is brought to their attention is not considered notice to the University. In some cases, however these individuals may be required to report such information as required by their licensing body.)

The University will follow the procedures set forth herein to ensure prompt and equitable resolution of complaints of conduct prohibited by this policy. Certain types of sexual harassment may also be addressed by the University’s *Policy on Sexual Harassment Prohibited by Title IX* or the *Student Conduct Code*. 
Code. If a student is engaged in prohibited behavior, that behavior may also be addressed by the University’s Student Code of Conduct. If reported conduct is covered under the Violence Against Women Reauthorization Act of 2013 amendments to the Clery Act, but is not included within the scope of the University’s Policy on Sexual Harassment Prohibited by Title IX, the obligations under the 2013 amendments to the Clery Act will apply.

As the University receives information regarding prohibited behaviors and takes appropriate action in response to corollary complaints, it will do so while preserving the rights and procedural protections in the fact-finding and decision-making process of those against whom allegations have been made. All such investigations will be conducted by qualified, impartial personnel in a manner that is fair, equitable, and timely to all parties. The University maintains the confidentiality of such investigations to the extent possible, documents and tracks investigations to ensure reasonable progress, and closes investigations in a reasonably timely manner.

Complaint Process
Individuals who believe they have been the victim of conduct prohibited by this policy or believe they have witnessed such conduct should utilize the Harassment, Discrimination, and Bias Reporting System.

Process for Complaints Made by Students Against Employees
All complaints made by students against employees will be addressed using the Complaint Process set forth below. However, the complaint will be addressed using the definitions set forth in the Student Handbook. Complaints made by students in their capacity as student-employees will follow the definitions contained herein and the Complaint Process set forth below.

As part of this system, there is an Incident Response Team who logs the complaint and determines next steps in the resolution process (See the Incident Reporting Procedure/Flowchart). Within 10 working days of receipt, the Team forwards the report to the appropriate parties for action (i.e. immediate supervisor, Campus Safety Director, Title IX Coordinator, Provost, Vice President for Student Affairs, or the Assistant Vice President for Human Resources). That University representative will then take the necessary steps to address the issue.

If a supervisor directly receives a complaint of conduct prohibited by this policy, they must inform the Incident Response Team utilizing the Harassment, Discrimination, and Bias Reporting System. All parties responsible for resolution must submit a notice of resolution to the Incident Response Team. When the University receives allegations of misconduct that require an investigation, it will conduct a fair, timely, and thorough investigation that provides all parties appropriate due process and formulates a conclusion based on the evidence collected. The Incident Response Team will monitor the resolution process and communicate with the parties as appropriate.

Investigation Process
The appropriate party will investigate any reported allegations of harassment, discrimination, or retaliation. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant information. Throughout the investigation confidentiality will be maintained to the extent possible consistent with investigation practices. The investigation process will give persons accused of prohibited conduct notice of the nature of the allegations and an opportunity to respond.
For employee matters, the Assistant Vice President for Human Resources will recommend how the University shall resolve the matter to eliminate discrimination/harassment in the workplace and ensure compliance with this policy. If a determination is made that there has been a violation of this policy, the Assistant Vice President for Human Resources, in consultation with the appropriate Vice President shall take necessary steps to ensure compliance with this policy and determine what appropriate remedial measures including disciplinary action, if any, shall be imposed. The Vice President has final approval authority of any disciplinary action. The Vice President is responsible for communicating and administering approved disciplinary action.

Any employee who is found to have violated this policy will be subject to corrective action. Corrective action could include required subject matter courses/development, letter(s) of reprimand, and disciplinary action up to and including termination of employment.

**Appeals**
Within 10 calendar days of receiving notice of the determination of responsibility, the employee may appeal the determination regarding responsibility on the following grounds:

**Ground 1:** Procedural irregularity that affected the outcome of the matter

**Ground 2:** New evidence that was not reasonably available at the time determination regarding responsibility was made that could affect the outcome of the matter; and

**Ground 3:** The investigator(s) or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Appeals should be sent to the President. The President or their designee will review the appeal.

As to all appeals the President or their designee shall:

- Notify the other party in writing immediately when an appeal is filed and implement the appeal procedures equally for both parties;
- Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or the investigator(s);
- Ensure that the decision-maker(s) for the appeal complies with the standards set forth in this policy;
- Give the non-appealing party an opportunity to submit a written statement in response to the appeal within 10 calendar days of receiving the appeal, which shall be transmitted within 2 business days to the appeal decision-maker(s).

Within 20 calendar days of receiving the appeal and the response, the appeal decision-maker(s) shall issue a written decision describing the result of the appeal and the rationale for the result; and provide the written decision simultaneously to both parties. The appeal decision-maker(s) may deny the appeal or, if the appeal ground(s) has or have been met, may return the case to the initial decision-maker(s) for reconsideration, or convene a new hearing. If a case is returned to the initial decision-maker(s), the appeal decision-maker(s) shall identify which aspects merit further review.
The Incident Reporting Form is located at [INSERT LINK].