



## **Policy Against Discrimination Based on Race, Color, or National Origin**

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## **I. Introduction**

Fuller Theological Seminary Black students have been requesting a Title VI policy for several years. In August 2017, the Executive Director of Student Concerns was tasked with researching and creating a policy that would further protect students from unlawful discrimination based on race, color, or national origin. With input from students, the Associate Provost for Faculty Inclusion and Equity, the Director of Compliance and Risk Management, Fuller's General Counsel, and outside sources a Title VI policy was created.

General Counsel presented the policy to the Faculty Senate on February 19, 2019. The Senate reviewed the document and suggested a few minor edits. Once the edits were made the policy was passed on to the Diversity Council for their approval.

The following policy and procedures are designed to define what unlawful discrimination is according to race, color, and national origin and how these issues will be addressed by Fuller community members.

## **II. Applicable Federal Law**

This policy of Fuller Theological Seminary ("Seminary") addresses the requirements of Title VI of the Civil Rights Act of 1964 ("Title VI"), a federal law prohibiting discrimination based on race, color, or national origin in any program or activity that receives Federal funds or other Federal financial assistance. Title VI states as follows:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Programs and activities that receive Department of Education (ED) funds must operate in a non-discriminatory manner. These may include, but are not limited to: admissions, recruitment, financial aid, academic programs, student treatment and services, counseling and guidance, discipline, classroom assignment, grading, vocational education, recreation, physical education, athletics, housing and employment, if it affects those who are intended to benefit from Federal funds. Also, a recipient (an institution) may not retaliate against any person because he or she opposed an unlawful educational practice or policy, or made charges, testified or participated in any complaint action under Title VI. For a recipient (an institution) to retaliate in any way is considered a violation of Title VI. The ED Title VI regulations (Volume 34, Code of Federal Regulations, Part 100) provide a detailed discussion of discrimination prohibited by Title VI.

### **III. Policy Against Discrimination Based on Race, Color, and National Origin**

Fuller Theological Seminary is committed to providing and modeling a learning, working, living, and community environment that is free of unlawful discrimination in all of its policies, practices, procedures, and programs. This commitment extends to the seminary's administration of its educational policies, admissions, employment, educational programs, and activities. In keeping with this commitment, the seminary does not discriminate on the basis of race, color, and national origin, as stated in the seminary's *Community Standard: Policy Against Unlawful Discrimination*, as described throughout this document, and as defined in the definitions section IV below. Therefore, any violation of the Policy Against Discrimination based on Race, Color, and National Origin will be treated as a potential Community Standards Violation.

The ethical standards of Fuller Theological Seminary are guided by an understanding of Scripture and a commitment to its authority regarding all matters of Christian Faith and living. This understanding of Scripture and commitment to its authority directly relates not only to the seminary's admission, educational, and employment policies, but also to the seminary's core mission, values and identity. Since its establishment in 1947, the seminary has been an openly and pervasively sectarian Christian educational institution. The seminary's Statement of Faith is the distinctive component of its Articles of Incorporation, which were originally filed in California in 1951. The Statement of Faith is the defining principle within the seminary's governing bylaws and the unifying pillar supporting faculty governance. Under God and subject to biblical authority, the faculty, administrators/managers, and trustees bear concerted witness to the Statement of Faith, to which they subscribe, which they hold to be essential to their ministry, and which is the foundation upon which the seminary is based. As set forth in the seminary's *Doctrinal Perspective*, the seminary stands for the fundamentals of the faith as taught in Holy Scripture and handed down by the Church. As set forth in the seminary's *Evangelical Commitment*, the faculty, administrators/managers, trustees, and students of the seminary believe that Jesus Christ, as revealed in Holy Scripture and proclaimed in the power of the Holy Spirit, is the only ground for a person's reconciliation with God. As set forth in the seminary's *Mission Beyond the Mission*, faculty, administrators/managers, and trustees at the seminary see their role in the educational ministry of Fuller Theological Seminary as part of their larger ministry, which is common to all Christians, of serving Christ as obedient disciples in the church and in the world.

This policy against discrimination based on race, color, and national origin applies to all members of the Fuller Theological Seminary community. Violation of the policy against discrimination based on race, color, and national origin will result in disciplinary actions, which could include, but is not limited to, probationary status, academic suspension or expulsion, termination of residential lease, or employment suspension or termination.

#### **IV. Definition of Discriminatory Treatment, Conduct, and Hostile Environment**

##### **Discriminatory Treatment**

- an agent or employee of the seminary, acting within the scope of his or her official duties, treats a student differently on the basis of race, color, or national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason, so as to interfere with or limit the ability of the student to participate in or benefit from the services, activities or privileges provided by the seminary.

##### **Discriminatory Conduct**

- unwelcome based on (actual or perceived) race, color, or national origin
- harassing verbal, written, graphic content either online and/or physical conduct by *any* member of the seminary community.

##### **Hostile Environment**

- Discriminatory conduct may be disciplined when it creates a hostile environment. A hostile environment is created when discriminatory conduct is:
  - Sufficiently severe, or
  - Persistent or pervasive, and
  - Objectively offensive in that it:
    - unreasonably interferes with, denies or limits a student's or prospective student's ability to participate in or benefit from the seminary's educational programs or activities, employment access associated with Federal funds, benefits or opportunities, social, and/or residential program.

The seminary reserves the right to address offensive conduct that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature not on the basis of a protected status. Addressing such behaviors may not result in the imposition of discipline under Fuller policy, but will be addressed through respectful confrontation, remedial actions, education, and/or effective conflict resolution mechanisms.

#### **V. Guidance on Reporting**

Fuller Theological Seminary encourages those who have experienced discriminatory treatment, discriminatory conduct, and/or a hostile environment based on race, color, or national origin to report the incident promptly and to seek all available assistance. Fuller takes complaints seriously and will work with the reporting party to ensure their safety as much as possible and to remedy the situation. The seminary will interact lawfully with the police, if applicable, in any related investigation and reserves the right to commence its internal complaint resolution procedures prior to the completion of any police investigation.

## **Reporting Options**

The Discrimination Officer for Students is the individual designated by the Provost with responsibility for providing education and training about discrimination to the seminary community and for coordinating investigations about discrimination to ensure they are fair and equitable. He/she makes sure appropriate remedies or measures are provided to impacted students and employees. In addition, he/she facilitates the writing and updating of relevant policies. The Discrimination Officer for Students is authorized to designate other appropriately trained individuals to receive and investigate reports and complaints of discrimination as deemed appropriate at his/her discretion.

A Discrimination Officer for Students has been designated to receive complaints from students or involving students. The contact information is as follows:

### ***Discrimination Officer for Students and Title IX Coordinator***

Nicole Boymook

Executive Director of the Office of Student Concerns

*Title IX & Discrimination Officer for Students*

Office location: Kreyssler Hall (Catalyst), 2<sup>nd</sup> Floor, 130 N. Oakland, Pasadena, CA 91101

Phone: 626-584-5678

Email: [nicoleboymook@fuller.edu](mailto:nicoleboymook@fuller.edu)

### **Three Ways to File a Complaint:**

1. Notify the Discrimination Officer for Students directly at the contact info above.
2. File a complaint report on the Quad (<http://quad.fuller.edu/studentlife/resolution>).
3. Inform a seminary employee identified as a Responsible Employee, such as a department manager or administrator or other employee with supervisory authority, who is required to let the Discrimination Officer for Students or Discrimination Officer for Employees know. See the Seminary's Responsible Employees & Campus Security Authorities Policy (found at <https://www.fuller.edu/about/institutional-reports-and-documents/institutional-policies-procedures-and-resources/#authorities>) for a list of responsible employees.

*NOTE: If the complaint is about the conduct of the Discrimination Officer for Students, he/she will refer the complaint to the Office of the General Counsel, or an individual may contact the Office of the General Counsel directly, which will determine the appropriate next steps for investigation and resolution on a case by case basis.*

If you have any questions or concerns related to discrimination, please contact Nicole Boymook, Executive Director of the Office of Student Concerns, at [nicoleboymook@fuller.edu](mailto:nicoleboymook@fuller.edu).

Questions about Title VI can be directed to Nicole Boymook, the Executive Director of the Office of Student Concerns or to the Office of Civil Rights (<http://www2.ed.gov/about/offices/list/ocr/index.html>) of the U.S. Department of Education.

## **Interim Remedies/Measures**

The Discrimination Officer for Students, or his/her designee, may provide interim remedies intended to address the short-term effects of discriminatory treatment, discriminatory conduct, a hostile environment, and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations.

These remedies may include, but are not limited to:

- Referral to counseling for either party
- Education for the reporting and/or responding party, and/or the community
- Altering the housing situation of the reporting and/or responding party (on-campus resident student and/or on-campus resident employee)
- Altering work arrangements for employees (student employee and/or responding party)
- Suspension or administrative leave from employment
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

The seminary reserves the right, at the direction of the provost or his/her designee or the chief financial officer or his/her designee, to suspend or place on immediate administrative leave any member of the campus community accused of violating this policy, or to take any other interim measures the seminary deems appropriate, pending the outcome of an investigation and/or disciplinary proceedings.

Any interim remedies and measures will be kept confidential by the institution with the exception of those who need to know to carry out the interim remedies and measures, and otherwise, only in accordance with applicable state and federal laws.

## **VI. Retaliation Prohibited**

Fear of retaliation should not hinder the reporting of an alleged violation(s) of discrimination based on race, color, or national origin. The seminary strictly prohibits retaliation against a member of the Fuller community

- who opposes the practices prohibited by this policy against discrimination (consistent with all laws and applicable Fuller conduct policies),
- who brings forth a complaint,
- against whom a complaint is brought, or
- who otherwise is a participant in a complaint resolution process.

Such prohibited retaliatory conduct includes, but is not limited to, reducing a student's grade, decreasing an employee's pay, or downgrading a person's performance evaluation. This also includes intimidating, threatening, coercing, or in any way discriminating against an individual because of an individual's complaint or participation in the complaint resolution process, provided that the individual is not breaching applicable law or conduct policies. Retaliatory conduct within the meaning of this policy will be considered a violation of seminary policy, and anyone over whom the seminary has authority to do so (including third parties such as friends or colleagues of respondents) who violates this policy against retaliation will be independently disciplined by the seminary, up to and including possible termination of student status (expulsion) and/or termination from employment.

This policy against retaliation applies to all members of the seminary community, including students, authorized student organizations, faculty, administrators/managers, staff-level employees, and trustees. This policy may also be applicable to complaints deemed to have been submitted without merit and for a retaliatory purpose.

## **VII. Investigation/Procedures**

The Community Standard *Complaint Resolution Procedures: Sexual Harassment, Unlawful Discrimination, Unlawful Harassment, Sexual Misconduct, and Retaliation* (<https://www.fuller.edu/about/institutional-reports-and-documents/institutional-policies-procedures-and-resources/#resolution>) will be followed with the following additional provisions:

1. Once a potential incident of Discrimination has been reported, the Discrimination Officer for Students or his/her designee will determine the appropriate next steps for inquiry and resolution of the discriminatory action on a case-by-case basis. This may involve:
  - a. resolving the concern on informal basis,
  - b. the reporting party deciding not to continue the complaint process and Fuller determining it does not need to investigate,
  - c. determining that the alleged activity falls outside the scope of Fuller's Community Standards and policies (e.g., it does not meet the definition of a hostile environment), or
  - d. proceeding with the complaint resolution process.

If “d” above, in the event the complaint involves both a student (or authorized student organization) and an employee, the Executive Director of the Office of Student Concerns or his/her designee and the Executive Director of Human Resources or his/her designee, will normally investigate the complaint jointly. The Discrimination officer(s) or his/her designee will constitute a committee (comprised of a combination of a center director or his/her designee; faculty member; and administrator/manager or staff-level employee) to assist in the investigation, seek the assistance of outside/off-campus professionals if Fuller deems prudent, and do whatever he/she deems appropriate to ensure that an adequate, reliable, and impartial investigation is conducted.

2. The seminary's complaint resolution procedures will not be conducted by officials who have a conflict of interest or bias for or against the reporting party or the responding party, as determined by the seminary. If either party is concerned that a conflict of interest may exist

- with anyone involved in handling the complaint resolution procedure, such as the Discrimination Officer for Students, investigator, or decision-maker, then he/she must indicate his/her concern in writing in a timely manner, including the reason(s) for the potential conflict of interest, and submit his/her written concern to the Discrimination Officer for Students.
3. Fuller will usually complete investigations within 60 business days. However, if extensions are necessary, the good-cause reasons for the extensions will be provided in writing to both parties.
  4. Both parties will be provided periodic updates during the complaint resolution process.
  5. Both parties will be advised in writing of the outcome of a complaint, at the same time, once a decision has been reached.
  6. The standard used to determine whether this policy has been violated is **whether it is more likely than not** that the respondent violated this policy. This is often referred to as a “Preponderance of Evidence” standard.
  7. Both parties may have an advisor of their choice present during the investigation process. However, the role of the advisor is limited to the following: an advisor may only consult and advise his or her advisee, but not speak for the advisee at any meeting or proceeding, except to the extent required by law.
  8. The investigation of an unlawful discrimination allegation under this policy may proceed whether or not a related criminal matter is pending.

## **VIII. Resources for Assistance**

### **Fuller Psychological & Family Services**

**Office location:** School of Psychology building, 2<sup>nd</sup> floor

180 North Oakland Avenue, Pasadena, CA 91101

**Phone:** 626-584-5555

**Office Hours:** 8:00 AM - 4:30 PM M-F

**Counseling Hours:** 8:00 AM - 9:00 PM M-Th and 8:00 AM - 5:00 PM Fri

- See more at: <http://www.fuller.edu/fpfs/>

### **Seminary Chaplains**

**Office location:** Kreyssler Hall (Catalyst), 1<sup>st</sup> Floor

130 North Oakland Avenue, Pasadena, CA 91101

**Phone:** 626-584-5273

**Email:** [chaplain@fuller.edu](mailto:chaplain@fuller.edu)