

In today's institution, the role of department chair carries legal responsibilities regarding management of faculty and staff, as well as oversight of the department's interaction with students. As a department chair, there are several basic principles to remember in order to minimize adverse legal consequences.

"The first basic principle to keep in mind is that as an employee of the institution the chair nominally acts as agent for the principal; his or her acts, when committed within the scope of employment are attributable to the college or university. There are two sequelae that flow from this principle. The first is that as chair, your actions are no longer merely individual. You are acting for the institution and, intentionally or not, you are committing the institution."*

Don't Make Promises You Cannot Keep

This means that you must exercise a great deal of care whenever you make a commitment, or even imply a commitment, to a faculty member, a staff member or a potential faculty member. In any discussion your statements can be taken as contractually committing the institution. If you don't actually have the authority to make a monetary or resource commitment, or the ability to guarantee tenure, early tenure, a merit increase or other such advancement for example, do not imply to a faculty member or potential faculty member that you do! Casual remarks have been, and will continue to be, misinterpreted regarding these kinds of situations. Avoid making promises or commitments that are beyond your authority. If you have any doubt, discuss such situations with your Dean, or contact the Vice Chancellor of Academic Personnel regarding matters related to faculty. In matters regarding staff members, contact Campus Human Resources or Health System Human Resources for appropriate guidance.

"The other sequela of the principle of the chair acting as agent is that one of your major responsibilities is carrying out your institution's procedures. In the event that you fail to act in a timely manner as designated in those institutional procedures, you implicate the institution. You can effectively place your institution in a position of having breached a contract."*

Understand Policies and Procedures

As a department chair, institutional policies and procedures are your business. Like it or not, you should have a working knowledge of the primary policies and procedures that affect faculty, students and staff. At UCLA this includes understanding how to access sections of The Call, the Faculty Code of Conduct (Academic Senate), the Academic Personnel Manual (University of California)

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Discrimination and Harassment

Allegations of discrimination and harassment are frequently cited problems that arise in a university department. These situations may involve students, faculty and/or staff members and can arise from situations in which one party perceives unfair, rude, inconsiderate or bad treatment by others. In severe instances, retaliation or threatening behavior may also occur or be suspected.

As department chair, you must take all complaints related to discrimination or harassment seriously. The way that you respond to such complaints sets the tone for the individuals involved. You are responsible for developing and sustaining a climate of respect and inclusion for all members of the university community. Realize that it is very difficult for most people to come forward with complaints of this nature and that they fear that they will not be taken seriously or that negative repercussions will result. As chair, if you suspect that situations of discrimination or harassment are occurring in your department, you should discuss the situation with your Dean and bring it to the attention of the Vice Provost, Faculty Diversity & Development or the Staff Affirmative Action Office and/or university legal counsel in order to determine how best to proceed. These kinds of situations do not get better with time when left unattended, so no matter how difficult it may be, addressing the situation early is the best course of action.

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and Personnel Policies for Staff Members (University of California). You must also be aware of the Agreements that govern members of collective bargaining units at UCLA. Beyond these there are applicable California statutes and regulations, as well as Federal laws and regulations that relate to employment, discrimination, contractual agreements, research ethics, records management and constitutional rights.

**Ask For Help—
No One Knows It All**

Understandably most department chairs will not have the time to develop a complete understanding of all of these policies, procedures, union agreements, laws, regulations and the accompanying documentation. Thankfully, experts exist at UCLA to provide advice and counsel on these matters. Make it a habit to ask questions and contact the appropriate offices and departments for help before you go astray regarding institutional policy, procedure or law. In a court case, “ignorance” will not count as an excuse. Utilize the Academic Personnel Office and Campus or Health System Human Resources as a starting point. See the Chair Resources section of this document for more information.

Keep Others in the Loop

Lastly, remember to give the appropriate people a “heads up” whenever you are about to make a decision that has the possibility of resulting in a legal action. This means alerting your Dean’s office, the Vice Chancellor of Academic Personnel, university legal

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Discrimination and Harassment continued

Know procedures and resources available

It is important to become familiar with the different campus complaint procedures and the offices responsible for providing assistance. Call upon these offices for assistance if you learn of or suspect that any instances of discrimination or harassment are occurring in your department.

Exercise discretion

If someone comes to you with information about discrimination or harassment, exercise discretion. Do not share this information with others, except those who need to know based on their official capacities. Legal problems such as defamation or invasion of privacy can occur if you spread information to others.

Do not promise confidentiality

Do not promise confidentiality to someone who brings you a complaint. As a representative of the institution, you are going to have to share the information with the appropriate authority within the university. You should explain this at the start of any conversation related to discrimination or harassment. You should also explain that you will use discretion in handling the matter and that you will help protect the individual from retaliation if necessary. If an individual wants true anonymity, direct them to the Ombuds Office for consultation.

Accommodate disabilities

Under state and federal law, the university provides reasonable accommodations for persons with disabilities in the workplace and provides access for persons with disabilities. As chair, you may encounter issues

around accommodating faculty, staff or students with disabilities. Consult with the Chancellor’s ADA & 504 Compliance Office or other campus resources for advice.

Set the tone for an inclusive departmental climate

If you witness possible discrimination or harassment in the form of remarks made in poor taste, rude behavior, off color jokes or biased comments, take action. Take the department member aside and discuss

“As department chair, you must take all complaints related to discrimination or harassment seriously”

the situation with them. Let the person know what your expectations are in terms of appropriate behavior in the department workplace. As the chair it is your role to establish and sustain a welcoming climate for everyone. This includes addressing instances when department members are making colleagues feel uncomfortable. Stopping these behaviors early can save everyone a lot of pain in the long run.

Prevent retaliation

In the event that someone in your department makes a complaint, it is your responsibility to ensure that no retaliation is taken against that individual. University policy prohibits retaliation against complainants, witnesses and supporters. Consult with legal counsel and other appropriate resources within the institution for advice regarding prevention of retaliation.

“As the chair it is your role to establish and sustain a welcoming climate for everyone.”

Specific policies, procedures and resources exist for addressing complaints of discrimination, harassment and retaliation:

The Chancellor’s ADA & 504 Compliance Office serves as the campus re-

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Discrimination and Harassment continued

source for information regarding the Americans with Disabilities Act and its requirements. Any questions regarding the ADA and/or its requirements should be directed to the Chancellor's ADA & 504 Compliance Office. The ADA & 504 Compliance Office can provide materials regarding the law's provisions, as well as training for campus departments on their obligations under the law.

Faculty Diversity & Development is available to provide consultation to chairs regarding possible discrimination or harassment of faculty members and referral to campus resources for investigative or remedial steps in such situations. In addition, Faculty Diversity & Development provides information about affirmative action requirements for the recruitment process.

The Sexual Harassment Prevention Office can provide Chairs with consultation regarding how to address suspected instances of sexual harassment and referrals to the appropriate complaint resolution office on campus. UCLA is committed to creating and maintaining a community free of all forms of exploitation, intimidation, and harassment, including sexual harassment. UCLA does not tolerate sexual harassment, which is prohibited both by law and by University policy.

For matters regarding discrimination and harassment involving a staff member, consult the **Staff Affirmative Action Office**. The website contains a section on Nondiscrimination and Harassment, as well as a Supervisor's Toolkit which contains useful information on how to handle many situations involving staff members.

Sections based on:
Ann H. Franke, Esq. "**Discrimination and Harassment: The Legal Landscape.**" Department Leadership Project, American Council on Education.
<http://www.acenet.edu/resources/chairs/>

Nondiscrimination and Harassment

It is the policy of the University not to engage in discrimination against or harassment of any person employed by or seeking employment with the University of California on the basis of:

- race
- color
- national origin
- religion
- sex
- gender identity
- pregnancy¹
- physical or mental disability
- medical condition (cancer-related or genetic characteristics)
- ancestry
- marital status
- age
- sexual orientation
- citizenship
- status as a covered veteran²

This policy is intended to be consistent with the provisions of applicable State and Federal laws and University policies.

¹ *Pregnancy includes pregnancy, childbirth, and medical conditions related to pregnancy and childbirth.*

² *Covered veterans includes veterans with disabilities, recently separated veterans, Vietnam era veterans, veterans who served on active duty in the U.S. Military, Ground, Naval or Air Service during a war or in a campaign or expedition for which a campaign badge has been authorized, or Armed Forces service medal veterans.*

Legal Issues for Chairs continued

counsel, Campus Human Resources (staff issues) and any administrator whose duties relate to the matter at hand (e.g. Sexual Harassment Prevention Office). These people can help you act wisely and they are also the people who will be involved in defending the institution should legal issues arise.

Adapted from:
Hecht, Higgerson, Gmelch and Tucker (1999).
The Department Chair as Academic Leader.
Phoenix, Arizona: American Council on Education Oryx Press.

*Chapter 12, Legal Issues for Chairs, p. 213

Chair Resources

Chancellor's Americans with Disabilities Act (ADA) and 504 Compliance Office

<http://www.saonet.ucla.edu/ada&504/default.html>
A239 Murphy Hall
310.825.7906 or 310.825.2242 (Voice)
310.206.3349 (TTY)

Strathmore Building
501 Westwood Plaza, Suite 105
310.825.7627
8 am–5pm, Monday–Friday or by appointment

Sexual Harassment Prevention

<http://www.sexualharassment.ucla.edu/>

Academic Personnel Office

Vice Chancellor Tom Rice
www.apo.ucla.edu
3109 Murphy Hall
Box 951407
310.825.3841

Sexual Harassment Office

<http://www.sexualharassment.ucla.edu/regcomplaint.html>
Pamela Thomason
Sexual Harassment and
Title IX Officer
310.206.3417
pthomason@conet.ucla.edu

Faculty Diversity & Development

Vice Provost Rosina Becerra
www.faculty.diversity.ucla.edu
diversity@conet.ucla.edu
3134 Murphy Hall, Box
310.206.7411
List of policies and laws related to faculty affirmative action, discrimination and harassment:
<http://faculty.diversity.ucla.edu/library/policies/index.htm>

Staff Affirmative Action Office, Campus Human Resources

Linda Avila, Director
Charlotte Dunklin, Associate Director
mailsaa@saa.ucla.edu
310.794.0691
310.794.2800 fax

Office of Legal Affairs

Vice Chancellor Kevin Reed
The focus of the UCLA Office of Legal Affairs is fourfold:

- Provision of campus-wide legal assistance
- Provision of ombuds services
- Prevention of sexual harassment
- Title IX compliance

<http://www.ucla.edu/about/legalaffairs.html>

Employee & Labor Relations, Campus Human Resources

Lynne Thompson, Director
310.794.0860
310.794.0865 fax

Employee & Labor Relations, Health System Human Resources

Maure Gardner, Director
Labor Relations. & Compensation
Jim Justiss, Director
Employee Relations. & Support Programs
310.794.0500
310.794.2752

The Office of Ombuds Services

Acting as neutrals and committed to confidentiality, the Ombudspersons may gather information on complaints, clarify issues, expedite processes or, when appropriate, initiate mediation.
<http://www.ombuds.ucla.edu/>

Jeri Simpson, Director
Healthcare Human Resources
Santa Monica Hospital
310.828.0346