

Policy on Harassment of CTLS Faculty, Staff, or Students

The mission of CTLS is to bring together legal scholars – students and faculty – from many countries and cultures. That mission requires all members of the CTLS community to exhibit mutual respect across cultural differences. Obviously, customs and manners can and do differ; there is no universal standard of respectful behavior. Sometimes, misunderstandings will arise. There are, however, fundamental guarantees against intrusive or harassing conduct to which each member of the community is entitled.

What is harmless joking to one person may be quite offensive to another. For this reason, not all harassment is easy to identify. Some people may attempt to explain away harassing behaviors as just “misunderstandings” or “over-sensitivity,” but if the behaviors contribute to creating a hostile environment, it may be inappropriate or even unlawful behavior.

To minimize misunderstandings, it is important to set out CTLS standards so that all members of the CTLS community know them from the outset, and understand CTLS procedures for resolving any problems that may arise. This document sets out the definition of harassment used by CTLS. It also sets out the CTLS policy and procedures to be followed if a student or faculty member believes that he or she is experiencing harassment.

This policy is meant solely to govern internal CTLS procedures, and operates in addition to applicable standards based on the employment contracts of faculty and staff with their own university, and terms of registration of students at their own university.

Definition of Harassment

CTLS regards as harassing conduct forms of behavior prohibited by the relevant policies of *either* King’s College London *or* Georgetown University. In other words, ours is an inclusive definition, which covers behavior forbidden by either or both institutions. Furthermore, conduct at CTLS is governed by applicable UK law, including the Protection from Harassment Act of 1997, as amended (PHA). CTLS regards harassing conduct to include relevant violations of the PHA. We look to the King’s College London standards as a model UK-law-compliant policy.

Specifically, we note that King’s College London defines “gross misconduct” to include physical violence, serious bullying or harassment, and unlawful discrimination or harassment.¹ “Misconduct” includes disrupting the work of others, and bullying or harassment.² We will refer to these forms of misconduct and gross misconduct generically as “misconduct of the harassing type.” CTLS’s anti-harassment policy is

¹ REGULATION PERTAINING TO DISCIPLINARY & RELATED PROCEDURES FOR ACADEMIC STAFF, §11.1.

² *Ibid.*, §11.2.

intended to cover all misconduct of the harassing type: harassment properly so-called, together with bullying, physical violence, disrupting the work of others, and unlawful discrimination.

Georgetown’s policy prohibits “harassment on the basis of age, color, disability, family responsibilities, gender identity and expression, genetic information, marital status, national origin and accent, personal appearance, political affiliation, pregnancy, race, religion, sex, sexual orientation, source of income, veteran’s status or other factors prohibited by federal and/or District of Columbia law (“Protected Categories”).”³ It defines harassment as follows:

Harassment is verbal or physical conduct that denigrates or shows hostility or aversion to an individual because of a Protected Category as specified above, when such conduct has the purpose or effect of: unreasonably interfering with an individual or third party’s academic or work performance; creating an intimidating, hostile, or offensive educational or work environment; or otherwise adversely affecting an individual or third party’s academic or employment opportunities.⁴

We note that Georgetown’s policy limits its definition of harassment to harassment “because of a Protected Category,” i.e., discriminatory harassment; but the King’s College London policy has no such limitation. We therefore remove that limitation from Georgetown’s definition to arrive at the following, which we refer to as the “modified Georgetown definition” of harassment, and which will be employed by CTLS:

Harassment is verbal or physical conduct that denigrates or shows hostility or aversion to an individual, when such conduct has the purpose or effect of: unreasonably interfering with an individual or third party’s academic or work performance; creating an intimidating, hostile, or offensive educational or work environment; or otherwise adversely affecting an individual or third party’s academic or employment opportunities.⁵

Combining King’s College London’s list of misconduct of the harassing type with the modified Georgetown definition of harassment, and with the PHA, we define “harassing conduct” as follows:

HARASSING CONDUCT

A. “Harassing conduct” is:

- (a) harassment as defined in part B below;
- (b) bullying;

³ GEORGETOWN UNIVERSITY FACULTY HANDBOOK, §F (“Policy Statement on Harassment (Relating to Protected Categories”).

⁴ Ibid.

⁵ Ibid.

- (c) unlawful discrimination;
- (d) disrupting the work of others; or
- (e) violations of the PHA, including:
 - (i) “causing alarm or distress” offenses under §2 of the PHA;⁶
 - (ii) “putting people in fear of violence” offenses under §4 of the PHA;⁷
 - (iii) repeated attempts to impose unwanted communications and contact upon a victim in a manner that could be expected to cause distress or fear in any reasonable person;⁸
 - (iv) repeatedly making false and malicious assertions against a victim;⁹
 - (v) harassment of a closely connected group of which the victim is a member, for example family, neighborhood, or identity groups;¹⁰
 - (vi) harassment of others connected with the individual, knowing that this behavior will affect their victim as well as the other people that the person appears to be targeting their actions towards;¹¹ or
 - (vii) any other conduct prohibited by the PHA.

B. Harassment is verbal or physical conduct that denigrates or shows hostility or aversion to an individual, when such conduct has the purpose or effect of: unreasonably interfering with an individual or third party’s academic or work performance; creating an intimidating, hostile, or offensive educational or work environment; or otherwise adversely affecting an individual or third party’s academic or employment opportunities.

C. This definition encompasses conduct by academic faculty, staff, and CTLS students, when that conduct is directed at other CTLS faculty, staff members, or students. It applies while the faculty member has formal responsibilities to CTLS, which may begin before the start of the term and end after the formal end of the term.¹² For students, it applies from arrival at CTLS until the completion of their studies at the Center. For staff, it applies during their entire employment at CTLS.

Further details of the Georgetown, King’s College London, and United Kingdom standards drawn on here may be found at the following links:

⁶ This language is drawn from the Crown Prosecution Service’s Stalking and Harassment website, https://www.cps.gov.uk/legal/s_to_u/stalking_and_harassment/#a02a

⁷ Ibid.

⁸ Ibid.

⁹ Ibid., citing *Plavelil v Director of Public Prosecutions* [2014] EWHC 736 (Admin).

¹⁰ Ibid.

¹¹ Ibid.

¹² Thus, for example, the policy continues to govern faculty conduct through the period when the faculty member turns in grades and leaves campus, even if that is past the end of the term.

Georgetown: <http://facultyhandbook.georgetown.edu/toc/section4#6>, particularly the link to “Harassment” at F.

King’s College London:

<http://www.kcl.ac.uk/governancezone/Assets/Staff/Academic%20Staff,%20Disciplinary%20Procedures.pdf>

UK law:

https://www.cps.gov.uk/legal/s_to_u/stalking_and_harassment/#a02a and <http://www.legislation.gov.uk/ukpga/1997/40/section/1>

POLICY FOR INITIATING PROCEDURES RELATED TO POTENTIALLY HARASSING CONDUCT

A faculty member, student, or staff member who has a concern as to harassing conduct may wish to first solicit informal counsel from a faculty member or staff member, prior to the making of any formal complaint. Such counsel may be sought in confidence subject to the ordinary professional obligations on faculty and staff.

FOR FACULTY:

1. As a first step, a faculty member who believes that he or she is experiencing harassing conduct by a member of the CTLS community (faculty, staff, or students) should notify one of the faculty co-directors and/or the administrative director. The faculty co-directors and/or the administrative director should develop a proposal for addressing the issue in consultation with all the affected parties, and – provided that the complaining faculty member approves of the proposal – should undertake to implement it.
2. If (a) the complaining faculty member does not approve of the proposal, or (b) if the proposal, when implemented, does not resolve the problem, or (c) if the faculty member does not want to use the reporting mechanism set out at (1.) above (for example, because the conflict involves a faculty co-director or the administrative director), the faculty co-directors and/or the administrative director, in the case of (a) or (b), or the complainant in the case of (c), should notify the co-chairs of the Academic Council directly, who may, in turn, inform other members of the Academic Council. **The home school of both parties concerned shall be notified once an official complaint has been raised.** In that case, the deans of the relevant faculty members and the co-chairs of the Academic Council should discuss next steps for addressing the problem. In the event that no resolution can be achieved through discussion with the relevant dean or deans, the co-chairs of the Academic Council will make a recommendation to the Executive Council, which will resolve the matter.
3. If the circumstances raise a question about whether it is possible or appropriate for a faculty member to continue with normal teaching and professional responsibilities, the faculty co-directors or the co-chairs of the Academic Council will consult with the relevant dean or deans about the appropriate response.

4. Nothing in the foregoing precludes a school or schools from referring the matter for resolution through their own internal processes.

FOR STUDENTS:

1. As a first step, a student who believes that he or she is experiencing harassing conduct by a member of the CTLS community (faculty, staff, or other students) should notify one of the faculty co-directors and/or the administrative director. The faculty co-directors and/or the administrative director would develop a proposal for addressing the issue in consultation with all the affected parties, and – provided that the complaining student approves of the proposal – would undertake to implement it.

2. If (a) the student does not approve of the proposal, or (b) if the proposal, when implemented, does not resolve the problem, or (c) if the student does not want to use the reporting mechanism (for example, because the conflict involves a faculty co-director or the administrative director), the student should contact his or her home university's academic or student services liaison. The liaison should develop next steps in consultation with the co-chairs of the Academic Council.

3. Nothing in the foregoing precludes a school or schools from referring the matter for resolution through their own internal processes.

FOR STAFF:

1. As a first step, a staff member who believes that he or she is experiencing harassing conduct by a member of the CTLS community (faculty, staff, or students) should notify one of the faculty co-directors and/or the administrative director. The faculty co-directors and/or the administrative director should develop a proposal for addressing the issue in consultation with all the affected parties, and – provided that the complaining staff member approves of the proposal – would undertake to implement it.

2. If (a) the complaining staff member does not approve of the proposal, or (b) if it does not resolve the problem, or (c) if the staff member does not want to use the reporting mechanism (for example, because the conflict involves a faculty co-director or the administrative director), the staff member should notify the Associate Dean at Georgetown whose responsibility includes CTLS. The Associate Dean should develop next steps in consultation with the co-chairs of the Academic Council.

3. Nothing in the foregoing precludes a school or schools from referring the matter for resolution through their own internal processes.

CONFIDENTIALITY

Actions pursuant to these provisions shall be undertaken with strict confidentiality to the extent permitted by applicable law and consistent with CTLS' obligations to fully and appropriately investigate the complaint.

NOTIFICATION

Upon receipt of a formal complaint as regards to harassing conduct as set out in paragraph 1. of the process guidelines for Faculty, Students, and Staff, the faculty co-directors and/or administrative director in receipt of the complaint will notify the Dean of the school(s) of the relevant faculty member(s) and/or student(s). The Dean of those school(s) whose Faculty member(s) or student(s) are involved in the complaint shall be kept informed as to the progress of the complaint and of its resolution.