

Uplift Education

Freedom from Discrimination, Harassment, and Retaliation - Scholar

Policy Effective Date: August 14, 2020

Uplift Education prohibits discrimination, including harassment, against any scholar on the basis of gender, gender identity, gender expression, sex, sexual orientation, race, color, religion, national origin, disability, age, or any other basis prohibited by law. Uplift prohibits sexual assault, dating violence, domestic violence, and stalking as defined by this policy. Retaliation against anyone involved in the complaint process is a violation of Uplift policy and is prohibited.

Discrimination. Discrimination against a scholar is defined as conduct directed at a scholar on the basis of gender, gender identity, gender expression, sex, sexual orientation, race, color, religion, national origin, disability, age, or any other basis prohibited by law, that adversely affects the scholar.

Prohibited Conduct. In this policy, the term “prohibited conduct” includes discrimination, harassment, sexual harassment, gender-based harassment, sexual assault, dating violence, domestic violence, stalking and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

Prohibited Harassment. Prohibited harassment of a scholar is defined as physical, verbal, or nonverbal conduct based on the scholar’s gender, gender identity, gender expression, sex, sexual orientation, race, color, religion, national origin, disability, age, or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct:

1. Affects a scholar’s ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the scholar’s academic performance; or
3. Otherwise adversely affects the scholar’s educational opportunities.

Prohibited harassment also includes conduct that meets the definition of sexual harassment, sexual assault, dating violence, domestic violence, or stalking, as defined by this policy.

Sex-Based Harassment. As required by law, Uplift shall follow the procedures in Uplift’s Title IX Grievance Process upon a report of sex-based harassment, including sexual harassment, gender-based harassment, sexual assault, dating violence, domestic violence, and stalking, when such allegations, if proved, would meet the definition of sexual harassment under Title IX and/or this policy.

Sexual Harassment. Sexual harassment of a scholar by an Uplift employee includes both welcome and unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. An Uplift employee causes the scholar to believe that the scholar must submit to the conduct in order to participate in a school program or activity, or that the employee will make an educational decision based on whether or not the scholar submits to the conduct; or
2. The conduct is so severe, persistent, or pervasive that it:

- a. Affects the scholar's ability to participate in or benefit from an educational program or activity, or otherwise adversely affects the scholar's educational opportunities; or
- b. Creates an intimidating, threatening, hostile, or abusive educational environment.

Romantic or other inappropriate social relationships between scholars and Uplift employees are prohibited. Any sexual relationship between a scholar and an Uplift employee is always prohibited, even if consensual.

Sexual harassment of a scholar, including harassment committed by another scholar, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct when the conduct is so severe, persistent, or pervasive that it:

1. Affects a scholar's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the scholar's academic performance; or
3. Otherwise adversely affects the scholar's educational opportunities.

Sexual harassment of a scholar also includes conduct that meets the definition of sexual assault, dating violence, domestic violence, or stalking, as defined by this policy.

Gender Based Harassment. Gender-based harassment includes physical, verbal, or nonverbal conduct based on the scholar's gender, the scholar's expression of characteristics perceived as stereotypical for the scholar's gender, or the scholar's failure to conform to stereotypical notions of masculinity or femininity. For purposes of this policy, gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct:

1. Affects a scholar's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the scholar's academic performance; or
3. Otherwise adversely affects the scholar's educational opportunities.

Gender-based harassment of a scholar also includes conduct that meets the definition of sexual assault, dating violence, domestic violence, or stalking as defined by this policy.

Sexual Assault. Sexual assault includes all conduct meeting the definition of "sexual assault" in 20 U.S.C. § 1092(f)(6)(A)(v). In accordance with that definition, sexual assault means any sexual act directed at a person without their consent, including incidences where a person is incapable of giving consent. Any act of sexual assault may be considered prohibited harassment.

Dating Violence. Dating violence includes all conduct meeting the definition of "dating violence" in 34 U.S.C. § 12291(a)(10). In accordance with that definition, dating violence means acts of violence committed by a person in a current or past social relationship of a romantic or intimate nature with the other person. Dating violence can include physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control the other person in the relationship. Any act of dating violence may be considered prohibited harassment.

Domestic Violence. Domestic violence includes all conduct meeting the definition of “domestic violence” in 34 U.S.C. § 12291(a)(8). In accordance with that definition, domestic violence means violence committed by a current or former spouse, intimate partner, co-parent of a child, or other similar relationship with the other person. Domestic violence can include physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control the other person in the relationship. Any act of domestic violence may be considered prohibited harassment.

Stalking. Stalking includes all conduct meeting the definition of “stalking” in 34 U.S.C. § 12291(a)(30). In accordance with that definition, stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person in that position to suffer substantial emotional distress or fear for their safety or the safety of others. Any act of stalking may be considered prohibited harassment.

Retaliation. Uplift prohibits retaliation by a scholar or Uplift employee against a scholar alleged to have experienced discrimination or harassment, or another person who, in good faith, makes a report of harassment or discrimination, files a complaint of harassment or discrimination, serves as a witness, or participates in an investigation. The definition of prohibited retaliation under this policy also includes retaliation against a scholar who refuses to participate in any manner in an investigation under the Title IX Grievance Process.

False Claim. A scholar who intentionally makes a false claim or offers false statements in an Uplift investigation regarding discrimination or harassment, shall be subject to appropriate disciplinary action in accordance with policy and the law.

Reporting. Any scholar who believes that he or she has experienced prohibited conduct or believes that another scholar has experienced prohibited conduct should immediately report the alleged acts to a teacher, school counselor, academic director, other Uplift employee, or the appropriate Uplift official listed in this policy.

Any Uplift employee who suspects or receives direct or indirect notice that a scholar or group of scholars has or may have experienced prohibited conduct shall immediately notify the employee’s supervisor and the appropriate Uplift official listed in this policy and take any other steps required by this policy.

For the purposes of this policy, Uplift officials are the Title IX Coordinator, the ADA/Section 504 Coordinator, and the Superintendent.

Reports of discrimination based on sex, including sexual harassment or gender-based harassment as defined by this policy, may be directed to the designated Title IX coordinator for scholars. The Title IX Coordinator is Esther Kolni and can be reached by email at titleix@uplifteducation.org, by phone at 469-621-8500, or in person or by mail at 3000 Pegasus Park Drive, Bldg. 2, Dallas, Texas 75247.

Reports of discrimination based on disability may be directed to the designated ADA/Section 504 Coordinator for scholars. The ADA/Section 504 Coordinator is Rebecca Allen and can be reached by phone 469-621-8500, or in person or by mail at 3000 Pegasus Park Drive, Bldg. 2, Dallas, Texas 75247.

The Superintendent shall serve as coordinator for purposes of Uplift compliance with all other nondiscrimination laws. The Superintendent is Alexander Berk and can be reached by phone at 469-621-8500, or in person or by mail at 3000 Pegasus Park Drive, Bldg. 2, Dallas, Texas 75247.

A scholar or other individual shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the Title IX Coordinator or ADA/Section 504 Coordinator, may be directed to the Superintendent.

A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

To ensure Uplift's prompt investigation, reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act.

The Uplift official or designee will promptly notify the parents of any scholar alleged to have experienced prohibited conduct by an Uplift employee or another adult.

Investigation of Reports Other Than Title IX

The following procedures apply to all allegations of prohibited conduct other than allegations for harassment prohibited by Title IX. For allegations of sex-based harassment that, if proved, would meet the definition of sexual harassment under Title IX, including sexual harassment, gender-based harassment, sexual assault, dating violence, domestic violence, or stalking, see the procedures at Uplift's Title IX Grievance Process. A report of sex-based harassment will be addressed in accordance with the Title IX Grievance Process.

Uplift may request, but shall not require, a written report of prohibited conduct. If a report is made orally, the Uplift official shall reduce the report to written form.

Upon receipt or notice of a report, the Uplift official shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, Uplift shall immediately undertake an investigation, except as provided below at Criminal Investigation. If a Title IX Formal Complaint is filed, an investigation will be conducted in accordance with the Title IX Grievance Process.

If the Uplift official determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy, the Uplift official shall refer the complaint for consideration under the Scholar Code of Conduct.

If appropriate, and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, Uplift shall promptly take interim action calculated to address prohibited conduct or bullying prior to the completion of Uplift's investigation.

The investigation may be conducted by an Uplift official or a designee, such as the academic director, or by a third party designated by Uplift, such as an attorney. When appropriate, the academic director shall be involved in or informed of the investigation.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

If a law enforcement or regulatory agency notifies Uplift that a criminal or regulatory investigation has been initiated, Uplift shall confer with the agency to determine if Uplift's investigation would impede the criminal or regulatory investigation. Uplift shall proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation. After the law enforcement or regulatory agency has finished gathering its evidence, Uplift shall promptly resume its investigation.

Absent extenuating circumstances, such as a request by a law enforcement or regulatory agency for Uplift to delay its investigation, the investigation should be completed within ten Uplift business days from the date of the report; however, the investigator shall take additional time if necessary, to complete a thorough investigation. For a Title IX investigation, Uplift will complete the investigation in a reasonably prompt manner in accordance with the Title IX Grievance Process.

The investigator shall prepare a written report of the investigation. The report shall include a determination of whether prohibited conduct or bullying occurred unless the Title IX Grievance Process requires otherwise. The report shall be filed with the Uplift official overseeing the investigation.

Notification of the outcome of the investigation shall be provided to both parties in compliance with FERPA.

Uplift Action. If the results of an investigation indicate that prohibited conduct occurred, Uplift shall promptly respond by taking appropriate disciplinary action in accordance with the Scholar Code of Conduct and may take corrective action reasonably calculated to address the conduct.

If the results of an investigation indicate that bullying occurred, as defined by the Anti-Bullying Policy, the Uplift official shall refer to the Anti-Bullying Policy for appropriate notice to parents and Uplift action.

If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or bullying, Uplift may take disciplinary action in accordance with the Scholar Code of Conduct or other corrective action reasonably calculated to address the conduct.

Confidentiality. To the greatest extent possible, Uplift shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

Appeal. A scholar or parent who is dissatisfied with the outcome of the investigation may appeal through the Parent Grievance Policy, beginning at the appropriate level. A scholar or parent shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights. Appeals regarding Determinations of Responsibility or Dismissal of a Formal Complaint in a Title IX investigation will be addressed in accordance with the Title IX Grievance Process.

Records Retention. Uplift shall retain copies of allegations, investigation reports, and related records regarding any prohibited conduct in accordance with Uplift's records retention schedules, but for no less than the minimum amount of time required by law.

Access to Policies and Procedures. Information regarding this policy and any accompanying procedures

will be distributed annually in the Employee and Scholar Handbooks. Copies of the policy and procedures will be posted on Uplift's website, to the extent practicable, and readily available at each campus and Uplift's administrative offices.