

# Law & Society Association

## Anti-Discrimination and Anti-Harassment Policy

### 1. LSA Commitment to a Culture Free of Discrimination and Harassment

The Law & Society Association (LSA) is committed to providing a safe, inclusive, and welcoming environment for all participants at its conferences, events, and virtual meeting places. LSA therefore strives toward a culture free of discrimination and harassment, especially discrimination or harassment on the basis of actual or perceived sex, gender identity, race, ethnicity, sexual orientation, disability, socioeconomic status, age, religion, national origin, citizenship status, criminal record, veteran status, or their intersection. Discrimination against or harassment of colleagues, students, or other conference participants undermines professional norms that promote scholarly exchange and professional development. Such discrimination or harassment also undermines equal access to and enjoyment of the scholarly activities of LSA. “Participant” in this policy refers to anyone present at LSA meetings or events, including staff, contractors, vendors, exhibitors, venue staff, LSA members, and all other attendees. The LSA policy is intentionally broader than most antidiscrimination laws to create an environment conducive to scholarly exchange.

One of the central tenets of law and society scholarship is that policies alone rarely guarantee social change. Therefore, we couple our anti-discrimination and anti-harassment policy with a request that all LSA participants proactively help to establish a culture of respect in which all participants feel welcome and included. Such a culture will not only help to ensure that all participants feel welcome but also provide the best possible environment for intellectual exchange and professional development. Specifically, we request that all participants be aware of situations, actions, or language that may have the effect of making others feel unwelcome or disrespected and, if necessary, take action when such situations, action, or language are observed. We encourage all participants to be reflective about their language and to strive to ensure that their biases, both explicit and implicit, are not contributing to an environment that may be perceived by some as hostile to their group.

LSA provides ombuds [*link will be provided here with names and contact information of current ombuds*] to assist any conference participant who witnesses or experiences harassment or discrimination. LSA also provides a procedure for filing a complaint [*link will be provided here to the procedure for filing a complaint*]. In the sections below, we define discrimination and harassment, we offer suggestions for helping to create a culture free of discrimination and harassment, and we elaborate procedures for contacting an ombuds and for filing a complaint.

## **2. The LSA Anti-Discrimination and Anti-Harassment Policy**

LSA prohibits discrimination or harassment, including but not limited to discrimination or harassment on the basis of actual or perceived sex, gender identity, race, ethnicity, sexual orientation, disability, socioeconomic status, age, religion, national origin, citizenship status, criminal record, veteran status, or their intersection. This policy does not prohibit affirmative action, which in some situations may be necessary to avoid discrimination. LSA encourages anyone who experiences harassment or discrimination to use one of the complaint options outlined in this policy.

### **3. What is Discrimination?**

Discrimination includes *unequal treatment* of participants on the basis of actual or perceived sex, gender, gender identity, race, ethnicity, sexual orientation, disability, socioeconomic status, age, religion, national origin, citizenship status, criminal record, or veteran status, or their intersection. Discrimination also includes actions or comments that have an *unequal effect* on participants on the basis of actual or perceived sex, gender, gender identity, race, ethnicity, sexual orientation, disability, socioeconomic status, age, religion, national origin, legal status, criminal record, or veteran status, or their intersection. Discrimination also includes harassment, as defined below, on the basis of actual or perceived sex, gender, gender identity, race, ethnicity, sexual orientation, disability, socioeconomic status, age, religion, national origin, citizenship status, criminal record, veteran status, or their intersection.

### **4. What is Harassment?**

Harassment includes all actions or comments that are reasonably experienced as intimidating, harassing, abusive, derogatory, demeaning, or consistently marginalizing. Harassment also includes unwanted touching, harassing photography or recording, sustained disruption of talks or other events, and the real or implied threat of physical harm. Harassment is uniquely harmful when actions or comments are related to actual or perceived sex, gender identity, race, ethnicity, sexual orientation, disability, socioeconomic status, age, religion, national origin, legal status, criminal record, veteran status, or their intersection. Harassment based on gender, which has the effect of making someone feel demeaned or marking them as different in a negative way on the basis of their gender can constitute discrimination because of sex, and can but need not also include sexual harassment as defined below.

### **5. What is Sexual Harassment?**

Sexual harassment is a form of harassment. Sexual harassment includes severe or pervasive unwelcome solicitation of physical or emotional intimacy or touching, as well as severe or pervasive commentary or nonverbal conduct that is sexual in nature, regardless of the gender of the complainant. To be sexual harassment, the harassment need not involve sexual desire.

## **6. What is the Standard for Evaluating Claims of Discrimination or Harassment?**

Under this policy, discrimination and harassment are defined not by the intent of the perpetrator but rather from the perspective of a reasonable person in the complainant's position, using a preponderance of the evidence standard.

## **7. What to Do to Help to Create a Culture Free of Discrimination and Harassment**

All participants can play a role in creating an environment free of harassment and discrimination by following the norms of professional respect that help to promote honest intellectual exchange and quality scholarship. Participants should be proactive about mitigating harm to other conference participants. Participants can be proactive by: (1) recognizing that the power differences inherent in academia and in society generally can inhibit less powerful parties such as students and junior scholars from voicing their objections to offensive comments or behavior; (2) recognizing that harassment may take the form of subtle forms of conduct, including unintentional conduct, that are harmful to groups that lack societal power; (3) taking affirmative steps to include others in conference conversations or activities; and (4) being an active bystander if you observe potential harm to another participant. If necessary, contact an ombuds via email or at the cell phone number that will be provided for each meeting to link you with the ombuds on duty or, if someone appears to be in imminent physical danger, contact security personnel.

## **8. What to Do if You Experience Discrimination or Harassment at any LSA Event**

LSA provides two places to start to receive help regarding any type of discrimination or harassment prohibited by LSA policy. First, the ombuds of the LSA are available for informal confidential consultation about a wide range of concerns, including but not limited to discrimination or harassment. Second, the Discrimination or Harassment Complaint Procedure provides a more formal option for reporting and seeking formal resolution of incidents of discrimination or harassment. Each option is described separately in the next sections. The quickest way to report an incident and to get help addressing it, especially during an LSA meeting, is to contact an ombuds. However, participants are free to file a complaint without contacting an ombuds. The LSA ombuds may be contacted via email or at the cell phone number provided at each meeting and an intake officer for the Complaint Committee may be contacted via email

## **9. The Role of the Ombuds**

The ombuds play no role in LSA's formal complaint procedure, but can offer confidential guidance about what constitutes discrimination or harassment. The ombuds can also explain LSA options for reporting discrimination or harassment and outline other avenues for pursuing

such a complaint, such as state or local government, human rights or law enforcement agencies, the federal Equal Employment Opportunity Commission, or the U.S. Office for Civil Rights. If appropriate and if the complainant requests it, the ombuds may attempt conciliation. The ombuds cannot provide legal advice, but can offer support and guidance even if no further action is taken.

LSA recommends that the complainant first consult with the ombuds for clarification about the entire range of their options. This consultation is confidential and the details of such a conversation will not be reported to any administrator, officer, or committee of the LSA, except as required by applicable law. At all times, the role of the ombuds is entirely independent of any complaint you may decide to pursue through the following LSA complaint procedure. The ombuds will not keep any written records of complaints or consultations. Ombuds can be reached via email that will be provided and through cell phone numbers provided for each meeting or by asking for assistance from conference personnel. In the event that the ombuds is involved in or has a relationship with any party to the dispute, the ombuds will be recused after contacting another ombuds to address the issue.

#### **10. The Discrimination or Harassment Complaint Procedure**

Any participant in LSA may file a complaint regarding an incident that occurred at an annual meeting of the LSA or any other LSA event within the past two years. A complaint may be filed by contacting the intake officer for the Discrimination or Harassment Complaint Committee via email or at a cell phone number that will be provided at the meeting [*link will be provided with full list of email contacts and phone numbers*]. In the event that any member of the Committee has a prior relationship to any party involved in the complaint or is named in the complaint, that person will be recused from participation. In most cases, complaints should be in writing but a complainant may relate a complaint orally.

The chair of the Complaint Committee will contact the individual whose conduct is at issue in order to hear his or her perspective. The Complaint Committee will also conduct an appropriate investigation, which includes interviewing both parties and any witnesses to the incident identified by either party. The Committee will write a brief report stating its finding and determination, and the factual basis for the decision. The Committee will also allow the respondent and complainant to respond to the report in writing. In reaching conclusions about whether harassment or discrimination has occurred, LSA will not look to U.S. federal case law because much law and society scholarship indicates that federal case law tends to find that only the most egregious of acts constitute harassment and tends to overlook meaningful evidence in assessing discrimination. Instead, the Committee will consider whether the discriminatory or harassing conduct would have negatively affected the experience or experiences at LSA for a reasonable person in the complainant's position, using a preponderance of the evidence standard. The Committee will then, if appropriate, determine sanctions. When a participant is

found to have engaged in discrimination or harassment, the possible sanctions for that person are:

1. Issuing a warning to cease the discriminatory or harassing behavior and retaining a record of that warning in case of future violations;
2. Requiring the respondent to appear before the Complaint Committee and LSA President to learn about the consequences of their behavior and about likely consequences of similar behavior in the future;
3. Notifying the respondent's home institution of the violation;
4. Termination of current LSA conference participation and any LSA responsibilities or appointments held;
5. Barring the person from assuming any future governance positions within LSA;
6. Barring the person from participating in future LSA conferences or events; and/or
7. Revoking LSA membership

The Chair of the Complaint Committee will notify both parties of the Complaint Committee's decision. Should either party wish to appeal, the Executive Committee of the LSA and the Chair of the Complaint Committee will hear the appeal. Any party who is involved in the dispute or closely related to a party involved in the dispute would be recused. Decisions of the ad-hoc appeals committee are final.

### **11. Recordkeeping**

The LSA's Executive Officer will prepare two annual reports. The first report will contain general information about the number and types of complaints received. No names will be included in this report. The report will be provided to the LSA board and will be available by request to any LSA member.

The second report will describe each complaint and action taken, with all names included. This report will be held as a confidential record in the LSA's national office and may be consulted only by members of the LSA Executive Committee and members of the Complaint Committee in the course of their official duties, or as otherwise required by law

### **12. Policy Review**

LSA should conduct climate surveys of its membership and of conference attendees every 2 years to determine the prevalence of discrimination and harassment. LSA will review both climate survey data and complaint records every 2 years to identify any weaknesses in the policy and will make changes to bring LSA closer to having an environment free of discrimination and harassment.