

Our Sexual Harassment Policy 1.15

The Employer, employees and volunteers are responsible for assuring that the company maintains an environment for work and study free from sexual harassment. Sexual harassment is unlawful and impedes the realization of the University's mission of distinction in education, scholarship, and service. Sexual harassment violates the dignity of individuals and will not be tolerated. The University community seeks to eliminate sexual harassment through education and by encouraging faculty, staff, student employees, and volunteers to report concerns or complaints. Prompt corrective measures will be taken to stop sexual harassment whenever it occurs.

POLICY GUIDELINES

I. Definition

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature when it meets any of the following:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status.
- B. Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual.
- C. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment for working, learning, or living on campus. Sexual harassment can occur between any individuals associated with the University, e.g., an employee and a supervisor; coworkers; faculty members; a faculty, staff member, or student and a customer, vendor, or contractor; students; or a student and a faculty member.

II. Examples of Sexual Harassment

Examples of sexual harassment include, but are not limited to:

- A. Some incidents of physical assault.
- B. Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation.
- C. Direct propositions of a sexual nature and/or subtle pressure for sexual activity that is unwanted and unreasonably interferes with a person's work or academic environment.
- D. A pattern of conduct that unreasonably interferes with the work or academic environment (not legitimately related to the subject matter of a course) including:
 1. Sexual comments or inappropriate references to gender.
 2. Sexually explicit statements, questions, jokes, or anecdotes regardless of the means of communication (oral, written, electronic, etc.).
 3. Unwanted touching, patting, hugging, brushing against a person's body, or staring.
 4. Inquiries and commentaries about sexual activity, experience, or orientation.
 5. The display of inappropriate sexually oriented materials in a location where others can view them.

III. Romantic and/or Sexual Relationships

Romantic and/or sexual relationships between individuals in a supervisory, teaching, evaluation, advising, coaching, or counseling relationship constitute a conflict of interest. The person in the position of higher institutional authority has the responsibility to eliminate the conflict of interest. The conflict of interest must be eliminated in a way which minimizes potential for harming the person with lower institutional authority. Faculty, staff, and students who are in the position to influence academic or employment decisions about others with whom they are in a romantic and/or sexual relationship should recuse themselves from such decisions.

In the event of an allegation of sexual harassment, the University will strictly scrutinize a defense based upon consent when the facts establish that an institutional power differential existed within the relationship.

A. Prohibited relationships

1. Romantic and/or sexual relationships between faculty/staff/graduate associates/undergraduate TAs and students, and between attending physicians and medical residents/interns/fellows, cannot continue whenever there are supervisory, teaching, evaluation, advising, coaching, or counseling responsibilities for the student. Alternative academic/supervisory arrangements must be made to avoid being in a prohibited relationship; if acceptable alternative arrangements are not feasible, the relationship cannot continue.

Romantic and/or sexual relationships between supervisor and employee are prohibited. No person involved in a romantic and/or sexual relationship will have direct responsibility for evaluating the performance or for making decisions regarding the hiring, promotion, tenure, compensation, or termination of the other party to the relationship. Supervisors, including faculty supervisors, must take immediate steps to make acceptable alternative arrangements regarding their supervisory responsibility for the other party to avoid an actual or apparent conflict of interest. If acceptable alternative arrangements are not feasible, the relationship cannot continue.

2. Notification responsibilities to avoid prohibited relationships

University faculty/staff/graduate associates/undergraduate TAs must notify their supervisor (e.g. dean, chair, vice president, direct supervisor, etc.) of any prohibited relationship in which they are involved; and, have a duty to cooperate in making acceptable alternative arrangements. The Office of Human Resources, Organization and Human Resource Consulting, is available to facilitate or consult with parties about notification and making acceptable alternative arrangements.

Individuals who engage in prohibited relationships (i.e., who do not notify their supervisors and do not make acceptable alternative arrangements) are in violation of this policy. Supervisors, including faculty supervisors, who obtain information that would lead a reasonable person to believe that the Romantic and/or Sexual Relationships section of this policy has been violated, have an institutional duty to report the violation to the Office of Human Resources, Organization and Human Resource Consulting.

Individuals in positions of power, who engage in a series of exploitive sexual or romantic relationships, whether or not notification has occurred, may be held in violation of the romantic and/or sexual relationship policy.

3. Acceptable alternative arrangements

Acceptable alternative arrangements means removing any supervisory, teaching, evaluation, advising, coaching, or counseling responsibilities between the person with institutional power and the student or employee. The alternative arrangements should avoid negative consequences for the student or employee; if acceptable alternative arrangements are not feasible, the relationship cannot continue.

B. Corrective action

After a thorough review of the facts, corrective action will be taken with any faculty/staff/ student employee who violates this romantic and/or sexual relationship policy by:

1. Entering into or engaging in a prohibited relationship without notification and without making immediate acceptable alternative arrangements, or
2. Failing to follow any part of this policy, or
3. Failing to implement any responsibility of supervisors as identified in this policy. This applies to all supervisors, including faculty who serve in supervisory roles.
4. The corrective action process will be in accordance with university policies, faculty rules, or Code of Student Conduct.
5. An individual who promptly provides notification of a prohibited relationship and cooperates in making acceptable alternative arrangements in a timely manner will not be held in violation of the romantic and/or sexual relationship policy.

C. Important advisory statement on romantic/sexual relationships

Individuals in positions of power must be aware that romantic or sexual relationships with students are fraught with danger for exploitation and pose a legal risk to both the individual and the institution. There are special risks in any sexual or romantic relationship between individuals in inherently unequal positions of power. These relationships may be subject to concerns about the validity of consent and unfair treatment of other students or employees. Such relationships can undermine the atmosphere of trust essential to the educational process and the employment relationship. They may, moreover, be less consensual than the individual whose position confers power believes. The apparent consensual nature of the relationship is inherently suspect due to the fundamental asymmetry of power in the relationship and it thus may be difficult to establish consent as a defense to a charge. Even when both parties consented at the outset to a romantic or sexual involvement, this past consent does not remove grounds for or preclude a charge or subsequent finding of sexual harassment based upon subsequent unwelcome conduct. The greater the institutional power differential that exists the greater risk there is for exploited consent. Exploited consent exists when consent to a relationship is given as a function of the position of power one occupies over another within an institution. Many international students, faculty, and staff come from cultures in which deference to any authority figure is important and sexual harassment laws do not exist. Some individuals may be especially vulnerable to exploitive relationships given cultural, language, and immigration/visa issues. Faculty, staff, and students should be very careful to avoid relationships that may be exploitive in nature.

The University discourages romantic and/or sexual relationships between faculty and students, for all the reasons provided above.

The University strongly discourages romantic and/or sexual relationships between faculty and graduate students when in the same department; between faculty and undergraduate students majoring in the faculty member's area of expertise; when the faculty member has any influence over academic judgments about the student; and, in any context when the perceived power differential may be significant.

Finally, it is important to be aware that in some cases non-consensual relations may constitute sexual harassment, and allegedly consensual relations that "go bad" may later result in allegations of sexual harassment.

IV. Duty to Act

Any Human Resource Professional (HRP); supervisor, including faculty supervisors; chair/director; or faculty member who becomes aware of information that would lead a reasonable person to believe that sexual harassment has occurred will notify the Office of Human Resources, Organization and Human Resource Consulting, by ensuring that a Discrimination/Harassment Complaint Form or other appropriate documentation is filed within five working days of becoming aware of the information. The Complaint Form/documentation will initiate collaboration between the Office of Human Resources, Organization and Human Resource Consulting and the unit HRP to determine how to proceed with resolving the complaint.

V. Regulations

A. Confidentiality and non-retaliation

The University will make every reasonable effort to conduct all proceedings in a manner that will protect the confidentiality of all parties. Parties to the complaint should treat the matter under investigation with discretion and respect for the reputation of all parties involved.

University policy and state and federal law prohibit retaliation against an individual for reporting sexual harassment, or for participating in an investigation. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the sexual harassment allegation.

The University has a compelling obligation to address allegations and suspected instances of sexual harassment when it obtains information that would lead a reasonable person to believe that this policy has been violated.

precluded from taking any action it deems appropriate, including informing the alleged harasser of the complaint and pursuing an investigation even in cases when the complainant is reluctant to proceed. The complainant will be notified in advance when such action is necessary.

B. Corrective measures

When it has been determined that sexual harassment has occurred, steps will be taken to ensure the harassment is stopped immediately. Corrective measures consistent with the severity of the offense will be imposed consistent with applicable University procedures and may include sanctions.

Sanctions imposed on the harasser may include, but are not limited to, a reprimand, suspension, or dismissal from the University. In the event that a record of such sanctions will become a part of the harasser's personnel records, prior notice will be given to the harasser. Sanctions also may be imposed on any individual with a duty to act (under this policy and associated procedures) who fails to respond to a complaint of sexual harassment in a manner consistent with the provisions of this policy and the associated procedures. The complainant will be informed of the corrective measures taken.

C. False allegations

It is a violation of this policy for anyone to knowingly or with reckless disregard for the truth make false accusations of sexual harassment. Failure to prove a claim of sexual harassment is not equivalent to a false allegation. Sanctions may be imposed on individuals who knowingly or with reckless disregard for the truth make false accusations of sexual harassment.

D. Use of sexual harassment allegations in employment actions

When making decisions affecting an individual's employment or academic status, allegations of sexual harassment may be considered only if they have been addressed through this policy or procedure, a court of law, or other administrative proceeding. Whenever such an allegation is discussed as part of a determinant in the terms and conditions of an employment or academic status, the affected party should be given notice.

VI. Policy and Procedure Administration

The Office of Human Resources is responsible for the administration of this policy and the associated procedures. The president and each vice president, dean, department chair, director, administrator, faculty member, and supervisor is responsible for assuring compliance with this policy. Any such individual who obtains information that would lead a reasonable person to believe that this policy has been violated must refer the matter to the appropriate individual for investigation or, if so authorized, initiate a prompt and thorough investigation.

I. Educational Program Goals and Objectives

The University is committed to eliminating and preventing sexual harassment of faculty, staff, students, student employees, and volunteers and to fostering an environment of respect for all individuals. The University promotes educational programs coordinated by the Office of Human Resources to meet the following goals:

- A. Informing all individuals about their rights through training and dissemination of the sexual harassment policy.
- B. Including the sexual harassment policy in orientation materials for new faculty, staff, students, and volunteers.
- C. Notifying persons of prohibited conduct.
- D. Informing all individuals of the appropriate procedures and reporting mechanisms for addressing concerns of sexual harassment.
- E. Informing the community about the problems caused by sexual harassment.

F. Addressing issues of sexual harassment from a multicultural perspective.

II. Who Can Make Allegations

Sexual harassment concerns can often be resolved by the person being harassed addressing the matter directly with the alleged harasser. When such resolution is not feasible, any faculty, staff, student, or volunteer may bring an allegation against any member of the University community or any customer, vendor, or contractor of the University.

III. Confidentiality

To the extent possible, all information received in connection with the filing, investigation, and resolution of allegations will be treated as confidential except to the extent it is necessary to disclose particulars in the course of the investigation or when compelled to do so by law. All individuals involved in the process should observe the same standard of discretion and respect for the reputation of everyone involved in the process.

IV. Retaliation

University policy and state and federal law prohibit retaliation against an individual for reporting sexual harassment, or for participating in an investigation. The University will not tolerate retaliation in any form against any faculty, staff, student, or volunteer, who files an allegation, serves as a witness, assists an alleged, or participates in an investigation of sexual harassment. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the sexual harassment allegation. Allegations of retaliation should be directed to the Office of Human Resources, Organization and Human Resource Consulting.

V. Counseling and Support

A person seeking counseling or support may contact any of the following units:

- A. University Faculty and Staff Assistance Program
- B. Student Wellness Center, Sexual Violence Education and Support
- C. University Housing Administration
- D. Counseling and Consultation Service
- E. Office of Student Affairs

The role of the above offices is not to investigate allegations but to provide counseling and support.

VI. Receipt and Referral of Allegations

- A. An alleged violation of the University's sexual harassment policy may be taken to any of the following designated individuals:
 - 1. The human resource professional within a department or unit.
 - 2. A consultant in the Office of Human Resources, Organization and Human Resource Consulting.
 - 3. Any supervisor, faculty member, or faculty or staff administrator.
- B. If the alleged harasser is the alleged's supervisor, the alleged should directly contact either a higher level administrator in the college/unit or the Office of Human Resources, Organization and Human Resource Consulting.

- C. Cases involving student on student sexual harassment not in the employment setting will be handled in accordance with the Code of Student Conduct and are not covered under this procedure. The Office of Student Affairs will be responsible for the investigation and resolution of such allegations.
- D. When the above individuals receive an allegation of sexual harassment, they will promptly refer the matter to the appropriate individual for investigation or, if so authorized, initiate a prompt and thorough investigation.
- E. The Office of Human Resources, Organization and Human Resource Consulting, is available to provide consultation to any person who has a potential sexual harassment concern. Likewise, consultants are available to assist any administrator in handling an allegation.
- F. All individuals who are designated to receive allegations are expected to participate in training provided by the Office of Human Resources, Organization and Human Resource Consulting, related to handling sexual harassment allegations.

VII. Complaints

Procedures for filing and the investigation of allegations of sexual harassment are addressed in Guidelines for Investigating Complaints of Discrimination and Harassment.