

Policy Option 4: The policy is intended to provide for compliance of federal executive orders as well as federal and state laws which guarantee equal employment opportunity to individuals and groups within society. Questions may be addressed to and additional information obtained from the equal employment opportunity/affirmative action officer.

Policy Option 5: A faculty member who alleges discrimination should file their complaint with the faculty grievance committee.

B. SEXUAL HARASSMENT

Overview

Sexual harassment is presently at the forefront of public consciousness. Stories of sexual harassment fill the news and are a recurring theme in popular novels, movies and television programs. Businesses, government agencies and educational institutions are responding to increased liability for employers in cases of supervisor/employee and student harassment by implementing programs, seminars, and dispute resolution procedures designed to raise sensitivity to, and ultimately reduce the incidence of, sexual harassment in the workplace and school.

The first attempt to define sexual harassment came not from Congress or the courts, but rather from the Equal Employment Opportunity Commission (EEOC) in its 1980 "Guidelines on Discrimination Because of Sex," which described sexual harassment as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature...when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance creating an intimidating, hostile, or offensive working environment.

From this definition, courts have proceeded to flesh the elements of a sexual harassment claim. Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 obviously cannot prohibit, from the academic and workplace environments, all conduct of a sexual nature. Thus, sexual harassment is not the mere presence of vulgar or unprofessional activity. Rather, such actions are violations only when they are unwelcome and when their effect is to discriminate by altering the terms or conditions of the victim's employment, affect employment decisions concerning the individual, or combine to create a hostile, offensive or intimidating work or academic environment.

Sample Policies

Definition

Most colleges use the definition of sexual harassment proposed by the Equal Employment Opportunity Commission. Some expand on that statement by including a policy on student relationships; others add more detail by providing specific examples of hostile environments, including various forms of physical and verbal harassment. Many college policies suggest ways to respond to alleged specific acts of harassment.

Some policies make intent or knowledge an element of the offense. Some policies also extend beyond employment relationships and cover the educational environment.

Policy Option 1: The college reaffirms the principle that its students, faculty, and staff have a right to be free from sex discrimination in the form of sexual harassment by any member of the college community. Sexual harassment of students and employees at the college is unacceptable conduct and will not be tolerated. It is also unlawful.

Sexual harassment encompasses a wide range of verbal and physical behaviors. Although it obviously includes attempts to coerce an unwilling person into a sexual relationship, it is also unlawful to subject a person to unwanted sexual attention, to punish a refusal to comply, or to create a sexually intimidating, hostile, or offensive working or educational environment. Sexual harassment is understood to include verbal and physical behaviors, from sexual assault to the

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unwelcome emphasizing of sexual identity. What constitutes sexual harassment will be interpreted and applied consistent with accepted standards of mature behavior, academic freedom, and freedom of expression. The frequency, severity, and context of the behavior will be taken into account as well.

Policy Option 2: Harassment includes behavior, speech, or writing that demeans or stereotypes individuals in a harmful way. Harassment may create an intimidating, hostile, or demeaning environment and often has the effect of interfering with an individual's full and free participation in the life of the college.

Policy Option 3: Sexual harassment may be defined as the inappropriate introduction of sexual activities or comments into a work or learning situation. Sexual harassment is understood to encompass a wide range of behavior, including the coercion of a person into a sexual relationship, the subjection of a person to inappropriate verbal or physical sexual attention, and retaliation for a refusal to comply with sexual demands. It can consist of obvious actions such as unwanted touching or patting, or pressure for sexual favors; or it can consist of more subtle action, such as repeated comments about a person's physical appearance or derogatory remarks about men or women as a class. Such conduct has the effect of interfering with an individual's work by creating an intimidating, hostile, or demeaning environment. Sexual harassment is contrary to the most fundamental ethical canons of the academic community.

Policy Option 4: The university defines sexual harassment as unwelcome sexual advances, requests for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature which creates an offensive, intimidating, or hostile environment. Such behavior includes, but is not limited to, situations where one person has authority over another.

Some sexually harassing behavior is explicit. Examples include:

1. requests for sexual favors
2. rubbing, touching, or brushing another's body
3. physical assaults of a sexual nature
4. sexually offensive remarks

Behavior that may be experienced as intimidating or offensive, particularly when it recurs or one person has authority over the other, includes more subtle actions:

1. friendly hugs or arms around the shoulder
2. ogling and inappropriate staring
3. touching, patting, or pinching
4. veiled suggestions of sexual activity
5. requests for meetings outside business hours and/or in non-academic settings
6. use of risqué jokes, stories, or images in the classroom
7. use of inappropriate body images to advertise events

Policy Option 5: Using the definition contained in the Equal Employment Opportunity Commission guidelines, sexual harassment is defined as follows: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement; 2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; 3) 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 working, living, or academic environment.

Policy Option 6: Sexual harassment frequently involves a situation in which power inherent in a faculty member's or supervisor's relationship to their students or subordinates is unfairly exploited. While sexual harassment most often takes place in a situation of power differential between persons involved, sexual harassment may also occur between persons of the same status. The person exhibiting sexually harassing conduct needs to realize or intend that the conduct is offensive for the conduct to constitute sexual harassment.

Policy Option 7: It is the policy of this institution that no member of the academic community may sexually harass another. Sexual advances, requests for sexual favors, and other speech or conduct of a sexual nature may constitute sexual harassment when:

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1. Such advances or requests are made under circumstances implying that one's response might affect academic or personnel decisions that are subject to the influence of the person making the proposal; or
2. Such speech or conduct is directed against another and is either abusive or severely humiliating or persist despite the objection of the person targeted by the speech or conduct; or
3. Such speech or conduct is reasonably regarded as offensive and substantially impairs the academic or work opportunity of students, colleagues, or co-workers. If it takes place in the teaching context, it must also be persistent, pervasive, and not germane to the subject matter. The academic setting is distinct from the workplace in that wide latitude is required for professional judgment in determining the appropriate content and presentation of academic material.

Policy Option 8: It is illegal and against the affirmative action policies of the university for any member of the university community, male or female, to sexually harass another such member by (a) making unwelcome sexual advances or requests for sexual favors a condition of employment or academic advancement; (b) making submission to or rejection of such requests the basis for change in the individual's status; (c) creating an intimidating, hostile or offensive environment by such conduct which may cause the individual to perceive that their status in the community is at risk.

Policy Option 9: Conduct constituting sexual harassment has two elements. It must be (1) of a sexual nature and (2) offensive to the complainant. Such conduct will generally be considered offensive when it is carried out under circumstances in which the person engaging in it knew or should have known that the complainant considered it unwelcome and offensive, when the complainant did not solicit or incite the conduct, and especially when the complainant has indicated that the conduct is offensive. Sexual harassment may consist of conduct which is verbal and/or physical.

Examples of verbal harassment include sexual innuendoes, offensive remarks about another person's clothing or body, suggestive or insulting sounds, implied or overt sexual propositions, or pressure for sex.