

SEXUAL HARASSMENT POLICY

INTRODUCTION & POLICY STATEMENT

It is the policy of Case Western Reserve University to provide a positive, supportive, discrimination-free educational and work environment. Sexual Harassment is unacceptable and unlawful conduct, which will not be tolerated. The purpose of this policy is to define sexual harassment and the procedures the university uses to investigate and take appropriate action on complaints of sexual harassment. This policy and the accompanying procedures shall serve as the only internal university forum of resolution and appeal of sexual harassment complaints.

This policy applies to all members of the university community including all students, faculty, staff, and other university officials, whether full or part-time or under temporary contract, and guest lecturers, volunteers and visitors. Sexual harassment may involve the behavior of a person(s) regardless of the person's gender identity or expression against a person(s) of the opposite or same gender or against a person who is transsexual or transgender. All members of the university community must adhere to the sexual harassment policy and report violations of the policy.

The university is committed to educating its members about sexual harassment via this policy and related resources. Further information about sexual harassment and frequently asked questions about this policy can be found on the University's Sexual Conduct website at <http://www.case.edu/provost/sexualconduct/>.

Laws Governing Sexual Harassment

Sexual harassment in the workplace is a form of sex discrimination prohibited by Title VII of the Civil Rights Act of 1964 and by Section 4112.02 of the Ohio Revised Code. EEOC Guidelines require employers to affirmatively address the issue of sexual harassment and to adopt procedures for the prompt resolution of employee complaints. Similarly, federal regulations implementing Title IX of the 1972 Education Amendments require educational institutions that receive federal funds to provide a prompt and equitable procedure for resolving complaints of sex discrimination, including sexual harassment claims.

DEFINITION

Sexual Harassment can be defined as any unwelcome verbal or non-verbal sexual advance, requests for sexual favors, other verbal or physical conduct of a sexual nature, and/or conduct directed at an individual(s) because of gender when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or student status; or
- b. Submission to or rejection of such conduct is used as the basis for decisions affecting that individual with regard to employment (raises, job, work assignments, discipline, etc.) or to student status (grades, references, assignments, etc); or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or educational experience or creates an intimidating, hostile, or offensive work and/or educational environment*. Such conduct generally involves more than one incident and must be severe or pervasive.

*The work or educational environment includes, but is not limited to: offices, classrooms and clinical settings; residence halls and Greek Houses; on or off campus interactions between university community members; and all university sponsored activities, programs, or events (including off-campus activities such as international travel programs).

Examples of Sexual Harassment:

Acts that constitute sexual harassment take a variety of forms and may include but are not limited to the following *unwelcome* actions:

1. Propositions, invitations, solicitations, and flirtations of a sexual nature.
2. Threats or insinuations that a person's employment, wages, academic grade, promotional opportunities, classroom or work assignments, or other conditions of employment or academic life may be adversely affected by not submitting to sexual advances.
3. Verbal expressions of a sexual nature, including sexual communications about a person's body, dress, appearance or sexual activities; the use of sexually degrading language, name calling, sexually suggestive jokes, or innuendoes; suggestive or insulting gestures, sounds or whistles; sexually suggestive phone calls.
4. Sexually suggestive objects or written materials, such as e-mail or internet communications, pictures, photographs, cartoons, text messages, videos, or DVD's.
5. Inappropriate and unwelcome physical contact such as touching, patting, pinching, hugging or other sexually suggestive contact.
6. Stalking of a sexual nature; i.e. persistent and unwanted contact of any form whether physical, electronic or by any other means.
7. Stereotyping or generalizing about a group based on gender. These types of comments typically constitute sexual harassment when associated with other sexual behavior or comments.

Power Relationships

When one party has any professional responsibility for another's academic or job performance or professional future, the university considers sexual relationships between the two individuals to be a basic violation of professional ethics and responsibility; this includes but is not limited to sexual relationships between faculty (including teaching assistants and laboratory supervisors) and their students or between supervisors and their employees, even if deemed to be mutually consenting relationships. Because of the asymmetry of these relationships, "consent" may be difficult to assess, may be deemed not possible, and may be construed as coercive. Such relationships also may have the potential to result in claims of sexual harassment. See Consensual Relationship Policy at <http://www.case.edu/finadmin/humres/policies/standards/cr.html>. or <http://www.case.edu/president/facsen/frames/handbook.htm>.

Although Sexual Harassment often takes place when the alleged harasser is in a position of power or influence (e.g., a faculty advisor to a student, supervisor to supervisee), other types of harassment are also possible e.g., peer to peer.

Intent

The fact that someone did not intend to sexually harass an individual is not considered a sufficient defense to a complaint of sexual harassment. For example, in some instances, cultural differences may play a role in the interpretation of behavior, by either the accuser or accused, which may result in a complaint of sexual harassment. It is expected that all members of the university community are knowledgeable about what constitutes sexual harassment under this policy. Although the accused's perceptions will be considered, in most cases, it is the effect and characteristics of the behavior on the accuser, and whether a reasonable person in a similar situation would find the conduct offensive that determine whether the behavior constitutes sexual harassment.

Academic Freedom

Case Western Reserve University adheres to the principles and traditions of academic freedom. As stated in the Faculty Handbook, academic freedom is a right of all members of the university faculty and applies to university activities including teaching and research <http://www.case.edu/president/facsen/frames/handbook/CASEFH2006.pdf>. Each faculty member may consider in his or her classes any topic relevant to the subject matter of the course as defined by the appropriate educational unit.

Case Western Reserve University also recognizes, however, that these freedoms must be in balance with the rights of others not to be sexually harassed. It is therefore understood that the principles of academic freedom permit topics of all types, including those with sexual content, to be part of courses, lectures, and other academic pursuits. If there are questions about whether the course material or the manner in which it is presented falls within the definition of sexual harassment, the concerned party(s) should contact a designated reporting office representative (See: Designated Reporting Offices section in this policy).

RESPONSIBILITIES OF THE UNIVERSITY COMMUNITY

Any member of the university community who is consulted about and/or witnesses potential sexually harassing behavior has the responsibility to advise the accuser of the university's sexual harassment policy and encourage prompt reporting.

When a firsthand allegation of sexual harassment is made and the alleged harasser is named, members of the university community are obligated to report the allegation to one of the designated reporting office representatives (see Chart II). A firsthand allegation is defined as an allegation from a person who experienced alleged sexual harassment, or from a person who hears the allegation directly from the person who experienced the alleged sexual harassment. Because the university is committed to a positive educational and work environment, in instances where individuals witness or hear about behavior that could be construed as sexual harassment, the individual is encouraged to report the incident to the designated reporting offices.

Confidential resources(i.e. those members of the university who are licensed or designated by law as professionals who can receive privileged communication, and receive information regarding possible sexual harassment in the context of a professional relationship with the reporter of that information) are not required to report allegations of sexual harassment to university representatives (see Chart I within this policy).

Specific Responsibilities of University Community Members

All members of the university community are responsible for:

1. Complying with this policy;
2. Identifying and reporting sexual harassment; and
3. Cooperating in any subsequent investigation, including appearing before a hearing committee.

Deans, directors, department chairs, department heads, supervisors, and administrative officers are responsible within their area for:

1. Complying with this policy;
2. Identifying and reporting sexual harassment;
3. Informing individuals bringing complaints about the university's policy and their right to talk to a representative in the Office of Inclusion, Diversity and Equal Opportunity or the University Office of Student Affairs as appropriate;
4. Cooperating and participating in investigations, resolutions of complaints, and the implementation of recommended sanctions, if any; and
5. Providing a work and educational environment that is free from harassment and intimidation.

Designated Reporting Office Representatives in the Office of Inclusion, Diversity and Equal Opportunity (216-368-8877), and the Office of Student Affairs (216-368-2020), are responsible for:

1. Complying with this policy;
2. Identifying and reporting sexual harassment;
3. Coordinating, disseminating, and implementing this policy;
4. Serving as a resource for all matters dealing with sexual harassment complaints;
5. Conducting informal sexual harassment complaint inquiries and facilitating resolutions as appropriate; and
6. Referring formal sexual harassment complaints to the Vice President for Inclusion, Diversity and Equal Opportunity.

REPORTING

The university supports and encourages anyone who believes they have been sexually harassed to report the incident to the reporting source of their choice. Individuals who wish to seek advice or obtain consultation regarding sexual harassment have two types of university resources:

1. **Confidential Resources** (See Chart I)
 - a. Enables the person(s) concerned about sexual harassment to seek advice, support, and guidance about how to manage the situation without initiating university action.
 - b. Discussing a matter with a confidential counseling resource is not considered a report to the university or a request that any action be taken by the university in response to any allegation.

Chart I. University Confidential Resources

Student Complaints	Faculty or Staff Complaints
University Counseling Services (216) 368-5872 (24 Hours)	Employee Assistance Program (216) 241-EASE (3273) or (800) 521-3273 (24 hours)
University Health Services (216) 368-2450 (24 hours)	
Flora Stone Mather Center for Women (216) 368-0985 Ask to speak with the Licensed Professional Health Advocate (M-Fri) 8:30 a.m. to 5:00 p.m.	
Inter-Religious Center Muslim Campus Ministry, Newman Catholic Campus Ministry, and United Protestant Campus Ministry (216) 421- 9614 or Hillel (216) 231-0040 <i>(Ask to speak with a Clergy person)</i>	

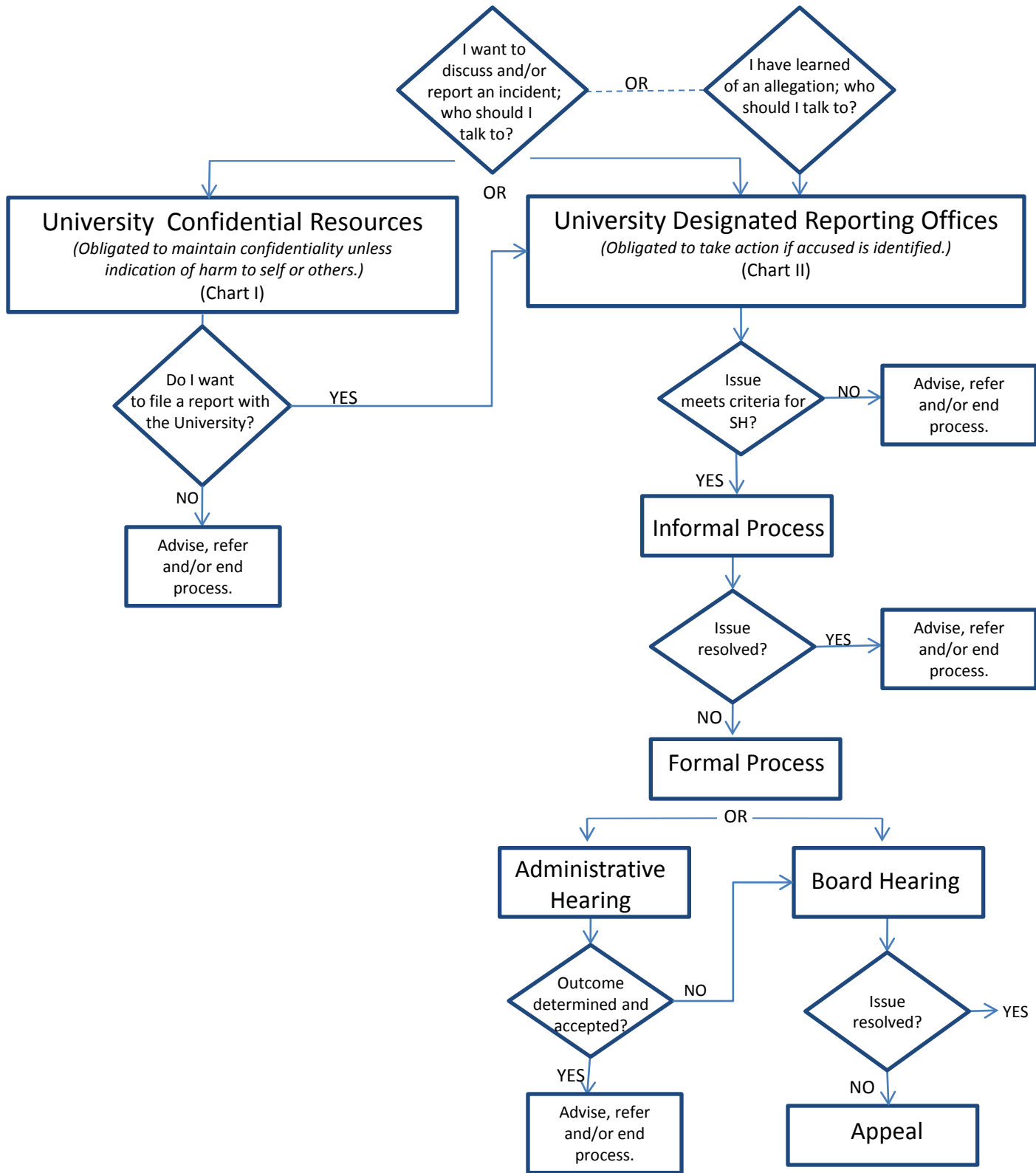
2. Designated Reporting Offices (see Chart II)

- a. Enables the person(s) concerned to seek advice, support, and guidance about sexual harassment *without disclosing* the name(s) of the accused.
and/or
- b. Enables the person to file a complaint of sexual harassment with the university, and when the name of the accused is made known to a designated reporting office representative, university action will be initiated.
- c. Designated reporting office representatives are obligated to investigate complaints of sexual harassment and to pursue university action as appropriate; consequently, the designated reporting resources will attempt to keep complaints confidential to the extent possible and consistent with the university’s requirement to investigate allegations and take appropriate action.

Chart II. University Designated Reporting Offices

Student Complaints	Faculty Complaints	Staff Complaints
Associate Vice President for Student Affairs (216)368-2020 (M-Fri) 8:30 a.m. to 5:00 p.m.	Faculty Diversity Officer (216)368-8877 (M-Fri) 8:30 a.m. to 5:00 p.m.	Equal Employment Opportunity and Diversity Specialist (216) 368-8877 (M-Fri) 8:30 a.m. to 5:00 p.m.

Student, Faculty, and Staff Sexual Harassment Complaint Process



Complaints Involving Different Constituents

When a sexual harassment complaint is made against an individual from a different constituency than the accuser (i.e. students/faculty complaints, faculty/staff complaints, etc.), the designated reporting office representatives representing each constituency will work together to investigate and bring resolution to the complaint.

Timely Reporting

Prompt reporting is in the best interest of the entire university community and enables the university to address and correct unacceptable behavior and provide support for the person(s) bringing the complaint. Complaints must be brought to the attention of the university within two years of the alleged incident. In some instances, the university reserves the right to utilize the sexual harassment policy and procedures and take action concerning a complaint brought beyond this period of time.

Anyone who has been sexually harassed may choose whether to pursue both the university sexual harassment process and/or criminal prosecution (if applicable). However, choosing not to pursue university or criminal prosecution does not remove the responsibility of the university to investigate and/or take action (*See Investigative Responsibility Section of this policy*).

Reporting Alternatives

Anonymous Reports

An anonymous report of sexual harassment is not considered a complaint under the policy. While the university will attempt to perform an inquiry as to any anonymous report received, anonymous reporting will limit the ability to conduct an effective inquiry and take action concerning the report (see University's Responsibility section of this policy).

Responsibility of Confidentiality & Non-Retaliation

When a report of sexual harassment is made, both the accused and the accuser, and all identified witnesses who are named in the investigation, will be notified of the university's expectation of confidentiality. The university will attempt to maintain confidentiality to the extent possible within legitimate conduct of an investigation and/or as required by law.

In addition, all parties will be informed of the consequences of retaliating against anyone involved in the complaint. Retaliation against persons raising concerns about sexual harassment or against witnesses or any person cooperating in the sexual harassment process is prohibited and will constitute separate grounds for disciplinary action. An individual who believes they have experienced retaliation should contact a designated reporting office representative (see Chart II) under the policy and the university will investigate the complaint. If the university determines that evidence exists to support that retaliation occurred, appropriate action will be taken, regardless of the outcome of the underlying sexual harassment complaint.

SEXUAL HARASSMENT COMPLAINT PROCEDURES

UNIVERSITY RESPONSE

University's Responsibility

Once a report of sexual harassment is made to one of the designated reporting office representatives, the university is obligated by law to investigate and to take appropriate action regardless of whether the accuser wishes to participate or considers the behavior sexual harassment.

The university's authority to investigate, to compel cooperation, or to impose sanctions against those who are not members of the university community is limited. The informal and formal processes as described below apply to faculty, staff, and students of the university. Complaints against guest lecturers, volunteers, and visitors will be referred to the Vice President of Inclusion, Diversity and Equal Opportunity or his/her designee for investigation and appropriate action.

Immediate University Action

Upon receiving a complaint, the designated reporting office representative will take appropriate immediate actions to protect the safety and well-being of the individuals involved in a complaint of sexual harassment. Generally, such actions include but are not limited to the following:

1. Notify the accused that a complaint has been made against them;
2. Provide a copy of the university sexual harassment policy to both parties;
3. Establish an agreement between the parties that they are not to initiate contact with the other party or parties until further notice by the university. Failure to cooperate or honor the agreement could result in restricting either party's presence on campus;
4. Have each of the parties and any witnesses sign a confidentiality statement, agreeing that they will keep the sexual harassment complaint and process confidential;
5. Advise all parties and any witnesses that they may not retaliate against any party or any witness involved in a sexual harassment complaint.

University Police Responsibility

There may be instances in which sexual harassment constitutes a criminal act. If a designated reporting office or the Case Police receives a complaint, or is made aware of a complaint of sexual harassment that also involves possible criminal activity, the designated reporting office and/or Case Police have a responsibility to uphold and enforce the law, even if the person sexually harassed does not want to participate in the process and/or make a complaint.

COMPLAINT RESOLUTION

Those having a concern about sexual harassment are encouraged to refer to the sexual conduct website at <http://www.case.edu/provost/sexualconduct/> for information and resources about sexual harassment. To discuss university policy and/or to file a complaint, the designated reporting office representatives in the Office of Inclusion, Diversity and Equal Opportunity or the University Office of Student Affairs will meet with any person(s) who raise concerns about sexual harassment at the university. They will provide general advice and resources about sexual harassment and will also discuss options for pursuing both informal and formal resolution of a sexual harassment complaint.

Resolving the Complaint

Once the accuser initiates an allegation and the accused person or group is identified, the designated reporting office representatives will conduct an initial inquiry of the sexual harassment complaint.

Initial Inquiry

An initial inquiry will include interviews with the person(s) reporting harassment and those person(s) accused of harassment and may include interviews of other potential witnesses. Following the initial inquiry, the designated reporting office representative will determine if the information gathered during the initial inquiry indicates that the complaint falls within the sexual harassment policy.

If the complaint falls within the sexual harassment policy, the designated reporting office representative(s) will proceed with the informal process or determine if the formal process should be utilized to bring resolution to the complaint. If the initial inquiry finds that the complaint does not fall within the sexual harassment policy, the accuser may be referred to other university policies or resources and/or the matter will be closed.

While an initial inquiry will be pursued for every identified complaint, generally, disciplinary action will not be taken against an individual or group unless the formal complaint process is used.

Rights Under the Process

The accuser and the accused can expect the university to respect the rights of all involved by following the stated university sexual harassment process.

Rights of the Accuser and the Accused:

- To confidentiality as provided in this policy (see above).
- To options outlined in the informal process or formal process if applicable.
- To the presence of an advisor at a board hearing (see Board Hearing Procedures).
- To not be questioned about past sexual conduct unless relevant to the case.
- To have the allegations investigated in a thorough and timely manner.
- To refrain from making self incriminating statements. However, the university will make a determination of whether a violation of the sexual harassment policy occurred based on the information presented.
- To be informed of the outcome of the sexual harassment process.

Informal Process

Purpose

The informal process is an opportunity to bring resolution to an informal complaint through awareness, education, and/or mediation. During an informal process, written statements are not taken from the accuser or the accused, and no hearing is conducted to determine if the sexual harassment policy has been violated.

Informal Process Steps

Step 1.-Facilitate Resolution

The designated reporting office representative(s) utilizes the information gathered during the initial inquiry to facilitate an appropriate resolution to the informal complaint. The following are examples of possible options, one or more of which may be used to bring resolution to an informal complaint.

Potential Informal Actions:

- a. Distribute a copy of the sexual harassment policy as a reminder to the department or area whose behavior is being questioned;
- b. Educate all parties regarding the university sexual harassment policy;
- c. Advise the person(s) how to communicate the unwelcome nature of the behavior to the alleged harasser;
- d. Conduct a sexual harassment educational workshop for the designated department/school/university organization;
- e. Meet with the accused to raise awareness about alleged inappropriate behavior and provide notice about possible university consequences;
- f. Mediate and/or negotiate with the accuser and accused (with the agreement of all parties);
- g. Institute alternative work, living arrangements, class schedule, advisor/supervisor arrangements; or
- h. Limit contact between accused and accuser.

Step 2-Document Informal Resolution

At the conclusion of the informal process a letter summarizing the outcome(s) of the process will be sent by the designated reporting office representative(s) to the accuser and accused and other appropriate university officials to bring closure to the matter (see Retention of Documents section in this policy).

If the matter is not resolved to the satisfaction of the accuser or the accused utilizing the informal process, and/or the university determines the matter should be resolved through the formal process, the accuser, the accused and/or the university may pursue the formal process.

Formal Process

The university offers a formal process leading to resolution of a complaint if the complaint falls within one of the elements of the university definition of sexual harassment (see definition on page 1: a, b, or c); the informal resolution is not agreed upon or fails to satisfactorily resolve a concern; and/or the university determines the formal process is necessary.

To initiate the formal process, the person or university representative making the complaint must complete Step 1. Steps 2-4 will follow.

Step 1-Accuser's Written Statement:

1. Complete a written statement of the sexual harassment complaint. The statement should be as specific as possible, including dates, times, locations, a description of the alleged harassing behavior and the name(s) of the alleged harasser(s).
2. Provide a list of any person(s) who may have information that would be helpful to the hearing process.
3. Submit the above information to the designated reporting office representative.

Step 2- University's Response:

The designated reporting office representative will contact the accused, provide him/her with a copy of the written statement, and ask that a written response to the complaint be submitted by a specified date.

Step 3-Accused's Response:

1. Submit a written response to the complaint to the designated reporting office. The response will be forwarded to the accuser and/or the university representative bringing the complaint, when applicable.
2. Provide a list of any person(s) who may have information that would be helpful to the hearing process.

Step 4-Determination of Administrative Hearing vs. Board Hearing:

A formal process may be resolved in one of two ways, through an administrative hearing or a board hearing.

An administrative hearing may be used when all of the following exist:

1. The accuser wishes to use an administrative hearing to resolve the complaint.
2. The accused has admitted to the alleged harassment and admits that the conduct is or could be construed as sexual harassment under the university's policy.
3. The accused agrees to an administrative hearing to resolve the complaint.
4. The designated reporting office representative(s) determine(s) that an administrative hearing is appropriate to bring resolution to the complaint.

A board hearing is used when the following exists:

1. The accuser wants to use a board hearing to resolve the complaint, and/or the designated reporting office representative(s) determine(s) that a board hearing is necessary to resolve the complaint.

Or

2. The accused does not admit that the alleged harassment has occurred and/or does not admit that the alleged conduct is sexual harassment under the university's policy.

Formal Process: Administrative Hearing

If the requirements listed above are met, an administrative hearing will be conducted. The function of this hearing is to hear from the accuser and the accused and to determine an appropriate sanction.

All administrative hearings will be conducted by the Vice President for Inclusion, Diversity and Equal Opportunity or his or her designee (the university hearing representative).

Administrative Hearing Procedure:

1. The accuser and accused will be notified of the date, time and location of the hearing.
2. The hearing is closed and generally includes only the accused and the Vice President for Inclusion, Diversity and Equal Opportunity or his or her designee.
3. The accuser may submit an additional written statement concerning the effect of the harassment and the desired sanction for the accused.
4. The accused may make a statement about the harassment and the possible sanction for the harassment, and present any other information to the university hearing representative.
5. The university hearing representative may ask questions of the accused and will consider the statements and any relevant information received during the investigation.
6. Prior to determining a sanction: the Vice President for Inclusion, Diversity and Equal Opportunity or his/her designee will consult with the following individuals depending on the constituency of the accused:

When a student is the accused: Vice President for Student Affairs or his/her designee;
When a faculty member is the accused: Provost or his/her designee;
When a staff member is the accused: Vice President for Human Resources or his/her designee.

7. After the hearing is concluded, the Vice President for Inclusion, Diversity and Equal Opportunity or his/her designee will make a decision promptly on the appropriate sanction and communicate that decision in writing to the accused, accuser, and to any university administrators, faculty or staff who require the information to carry out the sanction.

Administrative Hearing Appeal Process

If the accuser or the accused is not satisfied with the outcome of the administrative hearing, either may notify the Vice President for Inclusion, Diversity and Equal Opportunity or his/her designee of the desire to initiate a formal board hearing. Appeals must be submitted within five (5) business days of receipt of the written decision. A formal board hearing as outlined below will then be held.

Formal Process: Board Hearing

Sexual Harassment Board Membership: A sexual harassment board is appointed by the President annually and will include representatives of the administration, faculty, staff, and students. The appointees serve one-year terms renewable at the option of the President for up to three consecutive years. All board members will receive training specific to sexual harassment issues.

Hearing Board Composition: Three representative members will be selected from the board-at-large (faculty, staff and/or students) to serve as the hearing board for an individual case.

Chairperson: The Vice President of Inclusion, Diversity and Equal Opportunity or his/her designee serves as the chairperson and is an ex-officio, non-voting member of the board and facilitates the hearing process.

Board Members: The role of the selected board members is to determine if the action(s) or behavior(s) of the accused violates the university's sexual harassment policy. If the board finds the accused in violation of the policy, it will determine a sanction(s) to resolve the complaint.

Pre-Hearing Procedure: Prior to the board hearing, the chairperson will:

1. Determine available and appropriate hearing board members. An attempt will be made to include board members representing the constituencies of the accuser and the accused;
2. Consult with the accuser, the accused and potential board members to determine any personal and/or professional conflicts of interest that may make the board member unable to render an unbiased decision. All board participants are required to disclose any personal and/or professional conflicts of interest to the chairperson prior to agreeing to participate in a board hearing. The chairperson will determine whether a member should not serve on the board because of a conflict of interest;
3. Advise the accuser and accused of their right to have an advisor at the hearing, who must be a current student, faculty or staff member of the university community. An advisor may not be an attorney from outside the university community or a witness in the matter. Advisors may only consult with their advisee; they may not participate in the hearing in any way or address the board unless responding to a direct question from the chairperson;

4. Allow the board to require relevant members of the university community to participate in the hearing and request those outside the university community to appear at the hearing;
5. Notify all board members, the accuser, the accused, the witnesses and all those involved in the hearing process that the hearing is confidential and should not be discussed outside the hearing proceedings;
6. Make a determination as to the relevance of the information submitted and prepare information to be considered by the board; the information should include the following:
 - Accuser's written statement;
 - The accused's response;
 - Any other information submitted by the accuser or accused as deemed relevant to the complaint;
 - Any other information that may be relevant to the complaint;
 - Witness list (Prior to the hearing, each witness will be expected to submit a written statement about their knowledge of the complaint).
7. Provide accuser, accused, and advisors an opportunity to review all information prior to the hearing;
8. Arrange a hearing date, time, and location and notify all hearing participants in writing;
9. Advise board members about the complaint and the hearing procedures.

Hearing Procedure:

1. The chairperson will convene the hearing by introducing the participants and explaining the sexual harassment hearing purpose, procedures and standard of proof;
2. Standard of Proof is preponderance of evidence, which means that the board must be convinced, in light of all the information presented, that it is more likely than not that the sexual harassment was violated;
3. An audio recording of the hearing will be made;
4. The accuser will be invited to make a statement to the board;
5. The accused will be invited to make a statement to the board;
6. Witnesses invited to appear before the board will be asked to submit a written statement;
7. Board members will be permitted to ask questions at the conclusion of each statement. The accuser and the accused may then ask questions of each other. All questions must be directed to the chair.
8. The accuser, the accused and their advisors will be permitted to sit in the hearing during all statements and questioning. Witnesses will be permitted to attend only during their own statements and questioning.
9. The board may ask further questions of the accuser and the accused after it has heard from all witnesses invited to appear.
10. After all statements and questioning are completed, the board will dismiss the accuser, the accused and their advisors from the hearing and meet to discuss findings in confidence.
11. The board will consider all information received as part of the hearing process.
12. The board will issue one of the following findings:
 - a. The university's sexual harassment policy was not violated or
 - b. The university's sexual harassment policy was violated;

13. The board may also determine that the accuser's actions may violate some other university policy. This information will be provided to the chairperson, who will direct the information to the university official for further investigation and resolution.
14. If the board determines that the sexual harassment policy was violated, the board members will determine sanctions. Sanctions will be based on the nature and severity of the offense. In general, sanctions may include, but are not limited to, one or more of the following:
 - Apology and/or reprimand;
 - Participation in educational, skills or management training;
 - Written warning, or letter of reprimand;
 - Institute alternative work and/or living arrangements, class schedules, advisor/supervisor arrangements;
 - Limit contact between accused and accuser;
 - Faculty and staff may face suspension without pay, consideration of or denial of advancement or pay raise, demotion, or termination for cause;
 - Students may be suspended from the university, university housing, selected activities or organizations; placed on probation; or expelled from the university.
15. Prior to determining a sanction, the board will consult with the following individuals depending on the constituency of the accused:
 - **When a student is the accused:** Vice President for Student Affairs or his/her designee
 - **When a faculty member is the accused:** Provost or his/her designee
 - **When a staff member is the accused:** Vice President for Human Resources or his/her designee

Report of Findings

1. The board shall draft a written report that includes its finding of whether the policy has been violated or the policy has not been violated, the reason for the finding, and sanctions (if applicable).
2. The chairperson will distribute a copy of the report to the accuser, accused, and to the accused's department chair, dean/supervisor, and appropriate vice president(s) or his/her designee. A copy of the report will be kept on file in the Office of Inclusion, Diversity and Equal Opportunity. The chairperson will identify and notify the appropriate individuals to carry out the accused's sanctions, if applicable.

Appeal Process

Either the accused or the accuser may appeal the board's finding and/or sanction to the president on the basis for appeal set out below. Appeals must be submitted to the Vice President for Inclusion, Diversity and Equal Opportunity or his/her designee **within five business days of receipt of the written decision** and must specify the grounds for the appeal.

- The grounds on which an appeal may be filed with the president are limited to the following:
 1. New information not available to the board which, if available at the time of the hearing, may have affected the decision
 2. Evidence that established procedures were not followed in a manner that may have affected the decision, and/or

3. The sanction was inappropriate for the violation

- The president shall review the report and sanctions to be imposed, and may review any documents, the recording or statements presented to the board
- The president may accept, reject, or modify the finding and/or sanctions of the board based on one of the three grounds for appeal.
- The president will communicate his/her decision, in writing, to the Vice President for Inclusion, Diversity and Equal Opportunity or his/her designee, who will forward the decision to the accused, the accuser, and the board members.
- If the president rejects or modifies the board's decision, the Vice President of Inclusion, Diversity and Equal Opportunity or his/her designee also shall forward the president's decision to the accused's department chair, dean/supervisor, and appropriate vice president(s).
- The president's decision shall be final with the exception of certain faculty sanctions described in "Additional Faculty Sanction Process".

Complaints by the University

The university may bring a complaint against an accused person in instances in which the accuser is not willing to bring a complaint and the university determines it is necessary for the university to initiate a complaint. In such a case, the university will select a representative to act during the formal process.

Generally, if the accused is a faculty member, the university representative shall be the Provost or his/her designee; if the accused is a student, the university representative shall be the Vice President for Student Affairs or his/her designee; and if the accused is a staff member, the university representative shall be the Vice President for Human Resources or his/her designee. If the university representative is the accused or a potential witness, the president shall appoint the university representative. The university representative shall have the same rights and responsibilities as the accuser as outlined in this policy. The university representative shall not be an attorney from the Office of General Counsel.

Additional Faculty Sanction Process

If the sanction issued to a faculty member, following any appeals, is (1) termination of a tenured faculty member's appointment or (2) demotion in academic rank of a faculty appointment (professor, associate professor, assistant professor, or instructor) then the procedures in Section IV of the Faculty Handbook are initiated. The factual findings and conclusions of the sexual harassment board, or the president following appeal, shall be determinative as to whether the university's sexual harassment policy has been violated. The Section IV of the Faculty Handbook proceedings shall be limited to a determination of whether the finding constitutes just cause for termination of the tenured faculty appointment or for demotion in academic rank.

False Claims of Sexual Harassment

The University reserves the right to take appropriate action concerning members of the community who bring false claims of sexual harassment. A "false claim" exists when a person files a complaint against another person which the accuser knows is not true. No complaint will be considered "false" solely because it cannot be corroborated or because a formal process found there was no violation of the university's sexual harassment policy. An accused may file

a complaint of a false claim of sexual harassment by contacting one of the designated reporting office representatives under the policy. The university will investigate the complaint of a false claim and if it determines that evidence exists to support the false claims complaint, it will take appropriate action, which may include disciplinary action up to and including suspension, expulsion or termination.

RETENTION OF DOCUMENTS

All records will be retained for at least as long as the accused and/or the accuser(s) are members of the university community. Records will be kept in a confidential and secured location and only made available to designated reporting office representative(s), other appropriate university officials, or other authorized individuals as determined by law.

Informal Complaints: Information about all informal complaints will be kept on file in the offices of the designated reporting office representatives, and in the Office of Inclusion, Diversity and Equal Opportunity, and in a confidential file in the appropriate dean's and/or department chair's and/or supervisor's office when such dean/chair/supervisor is notified of the informal complaint to ensure that the university is maintaining records of those individuals about whom multiple informal complaints have been made and/or to enforce the informal resolution.

Formal Complaints: If the accused is found to have violated the sexual harassment policy, a copy of the decision letter will be retained in the individual's official university file.

If the person found in violation is a:

Faculty: The information will be kept on file in the Office of the Provost, the office of the appropriate dean and department, and the Office of Inclusion, Diversity and Equal Opportunity.

Staff: The information will be kept on file in Human Resources, the Department, and the Office of Inclusion, Diversity and Equal Opportunity.

Student: The information will be kept on file in the University Office of Student Affairs, the Dean's Office of the appropriate school, and the Office of Inclusion, Diversity and Equal Opportunity.

If the accused is found not to have violated the sexual harassment policy, a copy of the decision will be retained in the Office of Inclusion, Diversity and Equal Opportunity.

Annual Report

An annual report of sexual harassment complaints and their resolutions shall be produced by the Vice President of Inclusion, Diversity and Equal Opportunity or his/her designee and accessible on the Office of Inclusion, Diversity and Equal Opportunity website. The report shall identify accusers and accused by constituency only, e.g., student, staff, faculty.

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