

Sexual Harassment Complaint Procedure for Complaints Against Staff

The university is committed to maintaining an environment that is free from sexual harassment. To this end, a formal written policy has been developed that specifies certain behaviors by individuals which fall within the definition of sexual harassment and which are therefore subject to sanction and are prohibited.

This complaint procedure is intended to fulfill the university's obligation under applicable state and federal statutes and does not create any greater right than imposed by civil law.

1. Definition of Sexual Harassment:

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment, appointment, admission, or academic evaluation;
- submission to such conduct is used as a basis for evaluation in personnel decisions or academic evaluations affecting an individual;
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment; or
- such conduct has the purpose or effect of interfering with a student's academic performance, or creating an intimidating, hostile, offensive, or otherwise adverse learning environment.

2. Examples of Sexual Harassment:

Issued by: Todd R. Dickey
Senior Vice President for Administration

Chrysostomos L. Nikias
Provost and Senior Vice President,
Academic Affairs

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Specific examples of sexual harassment include, but are not limited to, making written, verbal, physical, and/or visual contact of a sexual nature.

- Written examples: suggestive or obscene letters, notes.
- Verbal examples: derogatory comments, slurs, jokes, or epithets of a sexual nature or sexist remarks, requests for sexual favors, repeated and unwelcome propositions for dates.
- Physical examples: assaults, impeding or blocking movement, touching, or body contact.
- Visual examples: sexual gestures, inappropriate display of sexually explicit objects, pictures, cartoons, posters, or drawings with sexist implications.

3. Notification by Complainant:

An employee who believes he or she has been sexually harassed should report the fact to the Office of Equity and Diversity who will assign an investigator ("Designated Investigator"). Alternatively, such report may be made to any of the following offices, each of which will assign an individual to take the report or take the report personally ("Designated Recipient"):

- the Office of the General Counsel,
- the Title IX Coordinator,
- the complainant's immediate supervisor,
- the chair of the faculty member's department,
- the head of the complainant's department,
- the dean of complainant's school,
- the Vice Provost for Faculty Affairs,
- the women's issues advocate for the university,
- the human resources professional within the complainant's department,
- an individual designated by the school or department authority,
- the Office of the Vice President for Student Affairs, or

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- the Office for Student Conduct.

Complainants are expected to bring complaints of sexual harassment or any threat, attempt, or act of retaliation to the Designated Investigator or Designated Recipient as soon as possible, and in no case later than one year from the act's occurrence.

Delay in taking action with respect to an incident may foreclose other remedies under federal or state law. Filing deadlines with government agencies may be as short as 180 days from the date of the alleged discriminatory act; deadlines for complaints involving students may be even shorter. The Office of Equity and Diversity will furnish information to complainants concerning other options for resolving his or her complaints outside of the university. A complainant need not wait until the conclusion of the university complaint procedure to seek another remedy.

The university urges that reports of harassment or retaliation be filed promptly.

In the absence of a complaint, the university may initiate an investigation if it has reason to believe that its policy prohibiting harassment or retaliation has been violated.

4. Confidentiality:

Although the university cannot commit to keeping a complaint of sexual harassment confidential because of the university's obligation to investigate the complaint, the university will use its best efforts not to disseminate information concerning the complaint beyond those who have a need to know.

5. No Retaliation:

University employees may not threaten, attempt to retaliate, or retaliate against: (1) a person filing a complaint of sexual harassment or retaliation, (2) any participant in the

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investigation, or (3) a person who protests the alleged sexual harassment or retaliation. Any incident of retaliation must be reported immediately to any Designated Investigator.

In addition, when the Designated Investigator investigates the complaint, he or she will warn the alleged offender(s) that: (1) he, she or they are not to retaliate against the complainant for filing the complaint, or against any participant in the investigation or against a person who protests the alleged sexual harassment, whether or not he, she or they accept the complaint as true; (2) such retaliation would be a violation of law and of university policies; and (3) the university may use any verified threats, attempts, or acts of retaliation as a basis for disciplinary sanctions which can result in termination.

Complaints of retaliation will be investigated. Retaliation directed toward the complainant or others who have participated in the investigation may include such things as the following: adverse employment action; adverse academic action; lowering a grade or giving a poor academic recommendation; exclusion from employment or educational opportunities; limiting scholarly activities (e.g., exclusion from teaching or research, or interfering with publication); and spreading negative information about an individual who has made, pursued or supported a complaint.

6. Report to the Designated Investigator:

If the complaint of sexual harassment or retaliation is made initially to a Designated Recipient, the recipient of the complaint must promptly prepare a statement of the claimed harassment and retaliation, if any, and send it to the Office of Equity and Diversity for assignment to a Designated Investigator. The statement must include, if known: (1) the names of the complainant and of the alleged offender; (2) a sufficient description of the alleged harassment and retaliation, if any, including its effect on the complainant, to enable the investigator to investigate it; and (3) a statement of the remedy requested.

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It is very important that the Designated Recipient of the complaint follow these directions. If the Designated Recipient fails to do so, the university and he or she may be legally at risk.

7. Investigation and Action:

The Designated Investigator will investigate the complaint to determine whether there is a sufficient basis to conclude that sexual harassment, or a threatened, attempted or actual retaliation, has occurred. In the conduct of the investigation, the Designated Investigator will inform the alleged offender(s) of the allegations in the complaint and the alleged offender(s) will be asked to respond. Both parties may provide statements from any witnesses. The Designated Investigator may personally interview each of the principals involved as well as others with relevant information. In making a determination of whether there is sufficient basis for the complaint, the Designated Investigator will consider the perceptions of the complainant, the alleged offender(s), witnesses to the incident and others who have information about the presence or absence of conduct following the same pattern. The fact that there is no witness to an incident that the complainant says occurred and the alleged offender denies does not require a finding that harassment has, or has not, occurred.

The Designated Investigator must make a written report of his or her investigation and determination for complaints against staff employees to the Office of the General Counsel and the Associate Senior Vice President for Administrative Operations in a timely manner.

For complaints against faculty, the report must be made to the Office of the General Counsel and the Vice Provost for Faculty Affairs within twenty-one (21) calendar days.

In determining whether or not to proceed, the university, by its designees, must look at all circumstances, including the frequency of the harassing or retaliatory conduct, its severity,

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whether it is physically threatening or humiliating, or an offensive utterance, and whether it unreasonably interferes with the work of the complainant or others.

In those instances where an action of the alleged offender has been identified as a threatened, attempted or actual retaliation, the possibility and credibility of alternative explanations for the identified actions will be considered.

8. Action on Sexual Harassment Complaints against Faculty

For action on complaints against Faculty, refer to the Faculty Handbook, section 3-14

9. Action on Sexual Harassment Complaints against Staff

The Office of Equity and Diversity must determine whether there is a sufficient basis to conclude that sexual harassment or that one or more attempts, threats or actual retaliation has occurred.

If the Office of Equity and Diversity, after consultation with the Office of the General Counsel, determines that there is an insufficient basis to conclude that sexual harassment, or that one or more attempts, threats or actual retaliation has occurred ("insufficient basis"), that will conclude the university's investigation, and the university will proceed no further at that time. A written summary of the basis of this decision must be provided to the complainant and the alleged offender(s).

The complainant may appeal an "insufficient basis" finding by written appeal to the Associate Senior Vice President for Administrative Operations for complaints against staff employees. The written appeal must be received within fifteen (15) business days of the date on the insufficient basis finding.

If the Office of Equity and Diversity, after consultation with the Associate Senior Vice President for Administrative Operations and the Office of the General Counsel, determines there is a

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sufficient basis to conclude that sexual harassment, or that one or more attempts, threats or actual retaliation has occurred, the Associate Senior Vice President for Administrative Operations must issue a written ruling stating the disciplinary action the university will impose on the staff employee or employees they have determined committed sexual harassment or retaliation and any other corrective action the university will take.

Copies of this ruling must be given to the complainant and to the respondent determined to have committed sexual harassment or threatened, attempted or engaged in one or more acts of retaliation.

Any disciplinary action the university has determined should be imposed against the respondent must go into effect no sooner than ten (10) business days after he or she has received a copy of the ruling, unless the Associate Senior Vice President for Administrative Operations, determines that immediate action is necessary to address a risk of ongoing harassment or retaliation or is in the best interest of the university.

The respondent may file a written appeal before ten (10) business days have elapsed with the Senior Vice President for Administration. The Senior Vice President for Administration must reply to the appeal within ten (10) business days of receipt and must notify the respondent of his decision either upholding or overturning the ruling of the Associate Senior Vice President for Administrative Operations. The appeal process does not delay imposition of disciplinary action against a staff employee.

Questions regarding these procedures should be addressed to the Office of Equity and Diversity at (213) 740-5086.

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