

SEXUAL HARASSMENT POLICY AND PROCEDURES

I. POLICY

It is the policy of Case Western Reserve University to provide a positive, discrimination-free educational and working environment. Sexual harassment is unacceptable conduct which will not be tolerated. All members of the University community share responsibility for avoiding, discouraging, and reporting any form of sexual harassment.

Members of the University community found in violation of this policy may be disciplined, up to and including being discharged for cause or being expelled from the University. Retaliation against persons raising concerns about sexual harassment is prohibited and will constitute separate grounds for disciplinary action, up to and including discharge or expulsion from the University.

This policy and the accompanying procedures shall serve as the only internal University forum of resolution and appeal of sexual harassment complaints.

A. 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 which receive federal funds to provide a prompt and equitable procedure for resolving complaints of sex discrimination, including sexual harassment claims.

B. Definitions

1. Sexual harassment can be defined as any unwelcome sexual advance, requests for sexual favors, or other verbal or physical conduct of a sexual nature, 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. The work or educational environment includes classroom and clinical settings, residence halls, activities, programs, offices and all CWRU-sponsored events.

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. Sexual harassment may involve the behavior of a person of either gender against a person of the opposite or same gender. It is not necessarily limited to offensive physical contact or requests for sexual favors. Sexual or "off-color" remarks, name calling, lewd gestures, obscene materials (photographs, cartoons, etc.) and touching may also constitute sexual harassment.

2. Members of the University community include all CWRU students, faculty, administrators, and staff, whether full or part-time.

C. Responsibilities of the University Community

University officials in the Provost's Office (Assistant Provost Joyce Jentoft- 4389), Office of Affirmative Action and Equal Employment Opportunity, (Director, Ann Penn - 8877), and the Office of Student Affairs, (Assistant Vice President Gwen Johnson - 2020) are responsible for:

1. Coordinating, disseminating and implementing this policy;
2. Serving as a resource for all matters dealing with sexual harassment complaints;
3. Advising about and investigating informal sexual harassment complaints;
4. Referring formal sexual harassment complaints to the Sexual Harassment Panel;

Deans, Directors, Department Chairs, Department Heads, and Administrative Offices are responsible within their area for:

1. Providing a work and educational environment that is free from harassment and intimidation;
2. Informing complainants about the University's policy and their right to talk to an Equal Employment Opportunity, Student Affairs or Provost's Office official;
3. Participating in investigations, resolutions of complaints and the implementation of recommended sanctions, if any.

All members of the University community are responsible for

1. Ensuring adherence to this policy;
2. Discouraging sexual harassment;
3. Cooperating in any investigation which might result, including appearing before a Hearing Committee.

Any member of the University community who is consulted about potentially sexually harassing behavior must advise the accuser of the University's sexual harassment policy and encourage prompt reporting to any one of the designated University officials charged with responsibility for investigating sexual harassment complaints. When a first hand allegation of sexual harassment is made, and the alleged harasser is named, members of the University community must report the allegation to any one of these designated University officials.

D. Confidentiality

The University will make all reasonable efforts to maintain the confidentiality of parties involved in a sexual harassment investigation. Confidentiality, however, cannot be guaranteed. Furthermore, whether informal or formal resolution is sought, anonymous complaints will not be brought against any member of the University community.

E. False Claims of Sexual Harassment

The University reserves the right to discipline members of the University community who bring false complaints of sexual harassment. No complaint will be considered "false" solely because it cannot be corroborated.

F. Annual Report

An annual report of sexual harassment complaints and their resolutions shall be produced by the Director of Affirmative Action/Equal Employment Opportunity. The report shall identify accusers and accused by constituency only, e.g., student, staff, faculty.

II. PROCEDURES

Members of the University community who believe they have been sexually harassed by others in the University community are entitled to an informal and/or formal investigation and complaint process as detailed below. Visitors, guest lecturers, program participants, etc., may use this policy and the procedures below where applicable to bring complaints against a member of the University community whose behavior in the CWRU educational or working environment is in question. Members of the University community may use this policy and the procedures below where applicable, to bring complaints against visitors, guest lecturers, program participants, etc. whose behavior in the educational or working environment is in question.

Prompt reporting of sexual harassment is in the best interest of the entire University community. Complaints must be brought within two years of the latest alleged incident. It should be noted that 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 designated University officials in the Provost's Office, the Office of Student Affairs and/or the AA/EEO office will meet with any person(s) who have raised concerns about sexual harassment at the University. They will provide general advice about sexual harassment, and will also discuss options for pursuing both informal and formal resolution of a sexual harassment complaint.

Once an accused person or group is identified, the designated University officials will conduct an initial investigation of a sexual harassment complaint. An initial investigation will include interviews with the person(s) reporting harassment and those person(s) accused of harassment and may include interviews of other potential witnesses.

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

A. Informal Process

The University's informal process provides those who believe they are being sexually harassed with a range of options designed to bring about a resolution of their concerns.

Depending upon the nature of the complaint and the wishes of the person(s) claiming harassment, informal resolution may involve one or more of the following:

1. advising the person(s) about how to communicate the unwelcome nature of the behavior to the alleged harasser;
2. distributing a copy of the sexual harassment policy as a reminder to the department or area whose behavior is being questioned;
3. if both parties agree, arranging and facilitating a meeting between the person(s) claiming harassment and those accused of harassment to work out a mutual resolution.

Information about all informal complaints and resolutions will be kept on file in the offices of the designated University officials. Should the formal process be used, the information gathered shall be forwarded to the Sexual Harassment Panel. To prepare the annual report and to more readily identify those against whom multiple informal complaints have been made, the Director of Affirmative Action/Equal Employment Opportunity shall be advised of every informal complaint as brought and of any resolutions of informal complaints.

B. Formal Process

The University offers a formal process leading to resolution of a complaint if informal resolution is not agreed upon or fails to satisfactorily resolve a concern. Because of the need for flexibility, no timelines have been set. Ordinarily, however, once the formal process is begun, each successive step should be carried out within two weeks of the previous step.

1. Sexual Harassment Panel

A Sexual Harassment Panel of at least 12 members will be appointed by the President and will include representatives of the administration, faculty, staff and students who shall normally serve a term of two years, renewable at the option of the President. The Panel will annually elect a Chair from among its members. The Director of Affirmative Action/EEO shall serve as Secretary to the Sexual Harassment Panel. All Panel members will be trained in sexual harassment matters.

2. Hearing Committees

Hearing Committees for individual complaints will consist of five (5) members of the Sexual Harassment Panel. Every hearing committee will consist of at least one faculty member, one staff member, and one student. The remaining committee members will include one representative from the constituency of the person(s) alleging harassment and one from the constituency of the person being accused. The Chair of the Panel shall serve on every committee. Panel members are responsible for notifying the Chair if their personal and/or professional conflicts of interest may make service on a particular committee inadvisable. Upon request by any party to the complaint, the Chair of the Panel shall determine whether a

particular Panel member should not serve because of a perceived conflict of interest.

C. Initiation of Formal Process

1. A detailed written statement dated and signed by the person(s) bringing the complaint must be filed with the Secretary of the Sexual Harassment Panel. 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 harassers. The statement should also identify any person(s) who may have information that would be helpful to the hearing committee.
2. The Sexual Harassment Panel will contact the alleged harasser(s), provide them with a copy of the written statement, and ask for a written response to be submitted by a specified date. The response should also identify any person(s) who may have information that would be helpful to the hearing committee's determination. That response will be forwarded to the hearing committee and to the person(s) charging sexual harassment.
3. The Secretary of the Sexual Harassment Panel will arrange a meeting with the parties and the hearing committee within a reasonable time of the receipt of the alleged harasser's response to the complaint.

D. Ground Rules

1. A hearing committee will protect, to the extent possible, the privacy interests of all those involved in the proceedings. To that end, all those appearing before a committee will be advised not to discuss their statements or comment on the proceedings outside of the meeting.
2. All parties, i.e., accusers and accused, will be allowed to have an advisor of their choice attend the meeting. Advisors may only consult with their parties; they may not address the committee and may not ask questions. All advisors will be bound by the confidential terms of the hearing committee's rules. Upon request by a hearing committee, and in any event when a party's advisor is an attorney, a representative of the University Attorney's office shall attend any portion of the meeting for purposes of consulting with and advising the committee.
3. The committee will consider information it has received in writing from the parties as well as the statements presented to it during the meeting. The committee may require members of the University community and ask others to appear at the meeting and, if necessary, continue the meeting to a later date.
4. The parties and their advisors will be permitted to sit in the meeting during all statements and questioning. Other persons will be permitted to attend only during their own statements and questioning.

5. A stenographer will be present to take minutes of the meeting. The committee's deliberations, however, will be private and confidential. The stenographer's transcribed minutes will be the exclusive record of the meeting. The parties may not bring their own court reporters or record the meeting. All parties will be given reasonable access to the record of the meeting.

E. Conduct of the Meeting

1. Persons bringing complaints will be invited to make a statement to the committee. Committee members will be permitted to ask questions at the conclusion of these statements.
2. Persons accused will be invited to make a statement to the Committee. Committee members will be permitted to ask questions at the conclusion of these statements.
3. At the conclusion of the Committee's questioning of both parties, the accused and the accusing persons may ask questions of each other but all such questions must be directed to the Chair.
4. Other persons asked to appear before the Committee will be invited to make statements. Committee members will be permitted to ask questions at the conclusion of the statements. At the conclusion of the committee's questioning of each person, the parties may ask questions of the person but all such questions must be directed to the Chair.
5. The committee may ask further questions of the parties after it has heard from all other persons invited to appear.
6. Once the committee has heard from the parties and all others invited to appear, it shall dismiss the parties and the stenographer and meet to deliberate in confidence.

F. Possible Findings

The Hearing Committee will be responsible for issuing one of the following findings after meeting with the parties and gathering all necessary information.

1. The University's sexual harassment policy has not been violated.
2. The University's sexual harassment policy has been violated. To issue this finding, the committee must be convinced, in light of all the information presented, that it is more likely than not that the alleged sexual harassment took place.

G. Report of Findings/Recommendations

1. Within a reasonable time after the meeting, the committee shall issue a report of its findings and the rationale for its findings to the Secretary of the Sexual Harassment Panel and the parties involved. If the committee has determined that the University's sexual harassment policy has been violated, it shall also make a recommendation as to sanctions.
2. If the committee has determined that the University's sexual harassment policy has been violated, the Secretary of the Sexual Harassment Panel shall distribute the report as follows:
 - a. if the accused is a faculty member, a teaching or research assistant, to that party's Department Chair, Dean and to the Provost;
 - b. if the accused is an administrator or staff member, to the Director of the Department of Human Resources and the appropriate Vice-President (or Provost or the President);
 - c. if the accused is a student, to the Vice President for Student Affairs, who will communicate with the appropriate Deans in the case of graduate or professional students.

Upon request by an accuser, a copy of the report shall also be distributed to that person's Department Chair and Dean, or supervisor and appropriate Vice-President.

3. The University officials identified in 2. a), b), and c) above are responsible for determining appropriate sanctions, if any. In making such a determination, these officials shall not be bound by the recommendations for sanctions, if any, offered by the panel. These officials shall communicate in writing any sanctions to the person(s) bringing the complaint, those found in violation of the policy and to the Chair of the Sexual Harassment Panel.

H. Sanctions

Sanctions shall be based on the nature and severity of the offense and the extent of the findings. In general, sanctions include, but are not limited to, one or more of the following: public apologies, public reprimands, participation in educational or counseling sessions, written warnings or letters of reprimand. In addition, faculty and staff may face suspension without pay, denial of a promotion or pay raise, demotion, and termination for cause. Students may also be suspended from the University, from University Housing or selected activities or organizations, placed on probation or expelled from the University.

I. Appeal

Any party to a decision may appeal the finding and sanctions to be imposed, if any, to the President in writing within two weeks of the receipt of the report of the officials identified above. The President shall review the findings and sanctions to be imposed, if any, and may review the transcript of the meeting to determine whether to uphold or reject the findings or sanctions. If in disagreement with the findings and/or the sanctions to be imposed, the President shall provide a written statement of a decision and the reasons for it to the parties, those charged with determining sanctions and the members of the Hearing Panel. The President's decision shall be final.

J. Other University Procedures

This policy and its procedures shall be the only internal University forum of resolution and appeal of sexual harassment complaints. However, should the infraction be such that the recommended sanctions involve termination of a tenured faculty member's appointment, and should the procedures set forth in Section IV of the Faculty Handbook be initiated, the factual findings and conclusions of the sexual harassment hearing committee shall be determinative as to whether the University's sexual harassment policy has been violated. The Section IV proceedings shall be limited to a determination of whether the violation as found constitutes just cause for termination of a tenured faculty appointment.