

Applies to: Employees (faculty, staff, student), students, and volunteers

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## **POLICY**

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The University administration, faculty, staff, student employees, and volunteers are responsible for assuring that the University 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.

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## **POLICY GUIDELINES**

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### **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.

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- 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. Consensual Relationships

#### A. Consensual relationships between faculty/staff/graduate associates and students

- 1. Consensual romantic and sexual relationships between faculty/staff/graduate associates and students are prohibited whenever the employee has supervisory, teaching, evaluation, advising, coaching, or counseling responsibilities for the student or would otherwise be likely to be asked to take on such a role in the future.
- 2. The University strongly discourages consensual romantic and sexual relationships between faculty and students in other contexts.

#### B. Consensual relationships between supervisors and their non-student employees

Consensual romantic and sexual relationships between supervisor and employee are strongly discouraged. No person involved in a romantic or consensual relationship will have direct responsibility for evaluating the performance or for making decisions regarding the promotion, tenure, or compensation of the other party to the relationship.

#### C. Reporting responsibilities

University faculty/staff/graduate associates must report and disclose to their supervisor or to the Office of Human Resources (OHR) any such relationship and have a duty to cooperate in making acceptable alternative arrangements. Supervisors must report to OHR any relationship reported or disclosed to them or that comes to

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their knowledge and must take immediate steps to provide acceptable alternative arrangements.

#### D. Corrective action

After a thorough review of the facts, corrective action will be taken with any faculty/staff/student employee who violates the consensual relationship policy by entering into or engaging in a prohibited relationship, or by failing to report such a relationship or cooperate in making alternative arrangements. The corrective action process will be in accordance with university policies, faculty rules or Code of Student Conduct.

These relationships may be subject to concerns about the validity of consent, conflicts of interest, and unfair treatment of other students or employees. Further, such relationships can undermine the atmosphere of trust essential to the educational process and the employment relationship.

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.

## **IV. 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. The University is not 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

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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.

#### D. 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.

#### E. 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.

### V. 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.

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## PROCEDURE

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## **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**

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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, Consulting Services.

## 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 Gender and Sexuality Services, Rape Education and Prevention Program
- C. Office of Residence Life
- 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 resources professional within a department or unit.
  - 2. A consultant in the Office of Human Resources, Consulting Services.
  - 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, Consulting Services.
- 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.

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- 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, Consulting Services, 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 Development, 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.

## RESOURCES

### For consultation:

- Office of Human Resources, Consulting Services 614-292-2800
- Office of Human Resources, Organization and Human Resource Development 614-292-4500
- Office of Academic Affairs 614-292-5881

### For more information:

- Ohio State Discrimination/Harassment Investigation Guidelines
- OSU Record Retention Policy  
[http://www.lib.ohio-state.edu/OSU\\_profile/arvweb/retention/gensched.htm](http://www.lib.ohio-state.edu/OSU_profile/arvweb/retention/gensched.htm)
- Discrimination/Harassment Complaint Form <http://hr.osu.edu/hrpubs/forms.htm>
- Rules for Classified Civil Service <http://hr.osu.edu/ccsrules/ccsrule1.htm>
- Code of Student Conduct [http://studentaffairs.osu.edu/resource\\_csc.asp](http://studentaffairs.osu.edu/resource_csc.asp)
- Faculty Rules and Procedures, 3335-5-04 <http://trustees.ohio-state.edu/rules5/ru5-04.html>
- Human Resources Policy 8.15, Corrective Action
- Human Resources Policy 10.10, Student Employment

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**For counseling and support:**

- University Faculty and Staff Assistance Program (UFSAP) 614-293-2442
- Student Gender and Sexuality Services 614-688-4898
- Office of Residence Life 614-292-8266
- Counseling and Consultation Service 614-292-5766
- Office of Student Affairs 614-292-9334

**For issues of academic freedom:**

- Council on Academic Freedom and Responsibility (CAFR)  
<http://senate.ohio-state.edu/CAFR.html>