

VI-1.20(A) UNIVERSITY OF MARYLAND POLICY AND PROCEDURES ON
SEXUAL HARASSMENT

APPROVED BY THE PRESIDENT 1 AUGUST 1991; Revised
December 13, 2004

A. POLICY

UM is committed to maintaining a working and learning environment in which students, faculty, and staff can develop intellectually, professionally, personally, and socially. Such an environment must be free of intimidation, fear, coercion, and reprisal. Accordingly, the Campus prohibits sexual harassment. Sexual harassment may cause others unjustifiable offense, anxiety, and injury. Sexual harassment threatens the legitimate expectation of all members of the Campus community that academic or employment progress is determined by the publicly stated requirements of job and classroom performance, and that the Campus environment will not unreasonably impede work or study.

Sexual harassment by University faculty, staff, and students is prohibited. This constitutes Campus policy. Sexual harassment may also constitute violations of criminal and civil laws of the State of Maryland and the United States. For the purpose of this Campus policy, sexual harassment is defined as: (1) unwelcome sexual advances; or (2) unwelcome requests for sexual favors; or (3) other behavior of a sexual or gender-based nature where:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation in a University-sponsored educational program or activity; or
- b. Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting that individual; or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or of creating an intimidating, hostile, or offensive educational or working environment.

In assessing whether a particular act constitutes sexual harassment forbidden under this policy, the standard shall be the perspective of a reasonable person within the College Park Campus community. The rules of common sense and reason shall prevail. Nothing in this policy limits expression protected under the First Amendment, campus freedom of expression, or similar policies. Allegations of sexual harassment shall be judged with attention to the facts particular to the case and the context in which the alleged incident(s) occurred.

Conduct prohibited under this policy may manifest itself in many different ways. Sexual harassment may, for example, be as undisguised as a direct solicitation of sexual favors, or solicitation accompanied by overt threats. Harassment may also arise from behavior that has the effect of creating an intimidating, hostile, or offensive educational or working environment. In this regard, the following types of acts, if pervasive and continuous, are most likely to result in allegations of sexual harassment: unwelcome physical contact; sexual remarks about a person's clothing, body, or sexual relations; conversation of a sexual nature or similar jokes and stories; and the display of sexually explicit materials in the workplace or used, without defensible educational purpose, in the classroom.

Sexual harassment may occur within a variety of relationships. It may occur among peers. It may occur where no relationship exists between the parties other than being co-employees or co-students. Especially injurious is harassment in relationships characterized by inequality of power, where one party has institutional authority over the other. Inherent in these relationships is the power and fear of reprisal. Typically, such relationships are found between employer and employee; senior faculty and junior faculty; graduate teaching assistant and undergraduate; and faculty and student, when the student is enrolled in a faculty member's class or when the student is in a continuing position to require evaluation of work or letters of recommendation from the faculty. Such relationships can be immediate or based upon future expectations, for example, the need for future evaluations and references. Sexual harassment may occur between persons of the same or different sex.

Education and awareness are the best tools for the elimination of sexual harassment. The Campus is committed to taking appropriate action against those who violate the provisions of the policy. The Campus is committed to protecting targets of harassment from retaliation.

B. PROCEDURES

1. General Principles.

Preventing sexual harassment is a responsibility of the entire Campus community. The Campus has made this a priority, but ultimately, no satisfactory investigation or resolution of a complaint can occur without the initiative and continuous cooperation of the person who feels injured.

Similarly, allegations of sexual harassment are extremely serious, with potential for great harm to all persons if ill-conceived or without foundation. Procedures which implement Campus policy recognize the potential for harm. The Campus is committed to protecting the rights of the alleged offender as well as the offended.

2. Confidentiality.

All complaints of sexual harassment are to be kept confidential. This means that the complaint will be discussed only with those who have a legitimate administrative or legal reason to know about the complaint. Information related to a complaint also may be subject to disclosure as required by state or federal law.

3. Filing a Complaint.

An individual who believes he or she has been subjected to sexual harassment has several ways to bring this to the attention of the University, and, where proper, obtain redress or protection. There is an Informal Complaint Procedure (see Section 5). There are also Formal Complaint Procedures (see Section 6) sufficiently broad to deal with sexual harassment. These procedures are explained later in this Policy.

Faculty, staff and students may report an alleged incident of sexual harassment to:

- a. the Campus Compliance Officer, Office of Human Relations Programs (405-2839);
- b. a Departmental or College equity officer;
- c. any Campus or University official or faculty member, including the reporting individual's supervisor, the department chair or dean;
- d. the Director of University Human Resources (405-5648);
- e. the President's Legal Office (405-4945);
- f. In addition to the options listed above, students also may report an incident of sexual harassment to the Office of Judicial Programs (314-8204).

4. Responsibilities of the Person Receiving the Complaint.

Any person who receives a complaint of sexual harassment shall not initiate any action to investigate or resolve the matter until he or she:

- a. explains that as a person receiving a report of sexual harassment, he/she must notify the Campus Compliance Officer or the Legal Office about the complaint. The Campus Compliance Officer and Legal Office will have a collaborative and information-sharing relationship regarding reports of sexual harassment. The purpose

of contacting one of these offices is:

- i. to ensure that the receiving person communicates the necessary information to the complainant,(including giving the complainant a copy of the Sexual Harassment Policy)
- ii. to determine what questions the complainant has about the Sexual Harassment Policy and procedures
- iii. to advise who would most likely be the appropriate University Official to handle an Informal Complaint.

b. speaks again to the complainant, after consulting with the Campus Compliance Officer and/or Legal Office. After the complainant has had the opportunity to raise any questions about the Sexual Harassment Policy and the Informal Complaint Process, the complainant will be offered the opportunity to decide which process to initiate.

5. Informal Complaints.

The Informal Complaint Procedure is intended to be a flexible process so that each case may be handled according to the specific facts presented. The Informal Complaint Procedure has no specific steps, time limits or other prescribed requirements.

- a. Depending on the specific facts, an Informal Complaint may be reviewed or investigated by a supervisor or similar University official who has administrative authority over the person accused of harassment, or by the Campus Compliance Officer or Campus Legal Office staff. The Campus Compliance Officer and/or Legal Office will determine who is the most appropriate person to handle an Informal Complaint.
- b. While a written complaint is not required to initiate an Informal Complaint, the complainant will generally be asked to submit a signed complaint. If the matter is to be investigated, consideration shall be given to the situation and the wishes of the complainant.
- c. The results of the investigation shall be confidentially reported, according to the procedures of the Office of Legal Affairs' and/or the Office of Human Relations Programs' procedures, to the complainant, the alleged

offender, the Legal Office, and as required, to the President, the relevant vice president, dean, chairman, or supervisor. Sanctions for sexual harassment may range from reprimand to termination, depending upon the circumstances of the case.

- d. Files will normally be kept for the period of time designated in the record retention policy of the office handling the complaint. Complainants and alleged may ask where and how long a file will be kept.
- e. The person accused of sexual harassment shall be:
 - i. told that a complaint has been made;
 - ii. informed of the specific facts of the complaint;
 - iii. told that the complainant has chosen to pursue the complaint under the Informal Complaint Procedures;
 - iv. given an opportunity to have his/her questions about the Informal Process answered before any review or investigation proceeds;
 - v. given a copy of the Sexual Harassment Policy; and
 - vi. advised of his/her rights to contest any disciplinary action taken against him/her as a result of the Informal Complaint Procedure.

6. Formal Complaints

Formal procedures for resolving sexual harassment complaints are available based on the classification of the complaining person.

- a. Faculty, all categories of staff, and students can file a complaint under the University Human Relations Code with a Campus unit equity administrator or the Campus Compliance Officer, Office of Human Relations Programs, 1130 Shriver Laboratory (405-2839). The Human Relations Code is on-line at <http://www.inform.umd.edu/PRES/policies/vi100b.html>
- b. Faculty members can file a complaint under the Faculty Grievance

Procedure with the Faculty Ombuds Officer, 2132 Main Administration Building (405-1901). The Faculty Grievance Procedure is on-line at <http://www.inform.umd.edu/PRES/policies/ii400a.html>

- c. Exempt employees can file a complaint under the USM Policy on Grievances for Exempt and Non-Exempt Staff Employees with the Office of Staff Relations, Department of University Human Resources, 1100 Chesapeake Building (405-5651). This grievance policy is on-line at <http://www.usmh.usmd.edu/Leadership/BoardOfRegents/Bylaws/SectionV II/VII800.html>
- d. Non-Exempt employees can file a complaint under the USM Policy on Grievances for Exempt and Nonexempt Staff Employees with the Office of Staff Relations, Department of University Human Resources, 1100 Chesapeake Building (405-5651). This grievance policy is on-line at <http://www.usmh.usmd.edu/Leadership/BoardOfRegents/Bylaws/SectionVII/VII800.html>
- e. A student can file a complaint against another student under the Code of Student Conduct with the Office of Judicial Programs, 2108 Mitchell Building (314-8204). The Code of Student Conduct is on-line at <http://www.inform.umd.edu/PRES/policies/v100b.html>

The procedures listed above are long-standing, structured procedures established by law and/or University System of Maryland policy. Unlike the Informal Complaint Process, each procedure sets out specific steps, time limits, and other formal requirements. Time limits may be extended to take into account behavior considered continuing in nature. The location of a file on a complaint of sexual harassment and how long a file may be retained are determined by the particular procedure used. A complainant or person accused of harassment can find specific information about each of the Formal Complaint procedures by calling the relevant office listed above.

Following is a Statement on Sexual Relationships and Professional Conduct. While sexual relationships in the supervisory context are not prohibited in the sense that penalties are attached to such conduct, all members of the Campus community are urged to consider the ethical concerns that arise as a result of such relationships, and to take prompt and reasonable steps to prevent such issues.

STATEMENT ON SEXUAL RELATIONSHIPS AND PROFESSIONAL CONDUCT

The basic function of a university is the discovery and transmission of knowledge, activities which are founded upon the free and open exchange of ideas. In order for productive learning and the work that supports it to occur, members of the Campus community--faculty, students, and staff personnel--should pursue their responsibilities guided by a strong commitment to principles of mutual trust and confidence and professional codes of conduct.

It should be understood by all members of the Campus community that sexual relationships that occur in the context of educational or employment supervision and evaluation are generally deemed very unwise because they present serious ethical concerns. Many professional codes of conduct prohibit sexual relationships that occur within the context of one's profession. Accordingly, faculty and supervisors are warned about the possible costs of even an apparently consensual relationship. The element of power implicit in sexual relationships occurring in the supervisory context can diminish a subordinate's actual freedom of choice. There is doubt whether any such relationship can be truly consensual. In addition, sexual relationships between a professor or supervisor and subordinate create an environment charged with potential conflict of interest. Questions of favoritism frequently arise. As a result, such conduct may subvert the normal structure of incentives that spurs works and learning advancement and interjects attitudes and pressures that are not consonant with the education and employment policies and principles to which the Campus is committed.