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Tennessee Scholars Senior Project
An Examination and Evaluation
of the University of Tennessee's Sexual Harassment Policy
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Although the impact the Clarence Thomas' nomination will have on the direction and rulings of the Supreme Court is unclear, the allegations Anita Hill made against Thomas and the Senate hearings that followed have profoundly affected Americans' attitudes about sexual harassment. These hearings served not only to increase awareness of sexual harassment but also to show the problem's seriousness. Just as people began to recognize that sexual harassment must be confronted in the work place, universities are also beginning to realize that they must deal with sexual harassment in offices and classrooms. Most individuals are reluctant to admit that sexual harassment exists, especially in the university community. However, after talking with university officials and students, I realized that sexual harassment does exist at U.T.. Most tragically, I discovered that much of this harassment goes unreported. It is important, however, not to "let a few bad apples ruin the tree" and taint the image of this university's employees or dictate drastic measures of dealing with this problem. Only after the existence of sexual harassment is recognized can measures be taken to eliminate the problem. Education is one step toward defining a framework in which to conduct student-teacher relationships.

The purpose of this paper is multifold. First, I will show the existence of sexual harassment in universities including U.T.. Secondly, I will demonstrate that the problem is often underestimated due to the small number of students who report incidents of sexual harassment. Because the occurrence and continuance of sexual harassment is due in part to confusion about

what it constitutes, sexual harassment will be defined and the provisions of Title VI and VII of the Civil Rights Act will also be discussed. Cases which illustrate the interpretation of these laws will be examined. Through an examination of the sexual harassment policies of various universities, the ways in which universities have chosen to deal with sexual harassment will be evaluated. I will also focus on the ability of universities to communicate their policies to the faculty and students. Finally, I will comment on the University of Tennessee's current policies and guidelines concerning sexual harassment and the information that is available to students about these procedures. In my conclusion, I will offer suggestions for improvement of U.T.'s current policy, focusing primarily on the availability of information explaining student rights and the process followed once a violation is reported.

Despite the prevailing attitude that sexual harassment is not a problem, statistics indicate that it occurs more often than the public realizes. At the University of California at Berkeley, for example, 30 percent of the female students indicated that at least one male professor had harassed them (Smith 4). Studies at Iowa State University revealed that 43.2 percent of the undergraduate and graduate females felt they had been the object of undue attention by an instructor; 17.4 percent were pinched, hugged, fondled or kissed; and 2.1 percent were offered rewards for compliance to the professor's sexual requests (Adams 484). The results of surveys conducted by the *Association of American Colleges* show that around 25 percent of undergraduate women and 35 percent of graduate

women experience sexual harassment in one form or another (Frieder 34).

If incidents of sexual harassment occur on campuses across the country, why do many people still refuse to acknowledge the problem? The answer lies chiefly in the low number of individuals who report these incidents to university officials. In an article published in the *Journal of College and Student Personnel*, 75 percent of the students surveyed believed that most female students would be reluctant to report incidents of sexual harassment. Several of the students surveyed indicated that they had been sexually harassed, and did not report the incident to a school official (Adam 488). The director of the Association of American Colleges' Project on the Status and Education of Women, Dr. Bernice Sandler, states that 90 percent of the sexual harassment of women at the undergraduate level is never reported (Frieder 36). According to Dr. Jerry Askew, Dean of Students, and Susan Cruth, Ombudsperson, the University of Tennessee has an equally low number of cases reported as few sexual harassment claims are ever brought to their offices.

Although statistics can sometimes be discredited, it is difficult to ignore the sexual harassment found within the Emory University School of Law. Last spring, the head of Emory's nationally-recognized litigation program and one of Emory's most well-known professors, Abraham Ordovery, was charged with sexual harassment by more than twenty students. The students accused Ordovery of unwanted touching and kissing. Ordovery denied the charges but admitted to being "touchy" and "consoling" a student over a low test score by kissing her in his office.

A committee of five faculty members found that Ordovery's conduct was not of the magnitude to constitute sexual harassment. They did conclude, however, that he had engaged in "inappropriate behavior". The committee stated that Ordovery "engaged in behaviors that some students perceived as sexual in nature and which they perceived created an intimidating or offensive educational environment." The committee concluded, however, that Ordovery should "return to teaching" and they allowed any students who wished to transfer from his class to do so. The Student Bar Association responded to the committee's report by organizing a school-wide boycott of law school classes. After two days of protests and four additional harassment charges, Professor Ordovery resigned (Frieder 36).

The problem of sexual harassment is not confined to Emory's School of Law. In fact, at a recent U.T. panel discussion on Sexual Harassment, three of the sixteen resident assistants present reported that they or one of their residents had been a victim of sexual harassment. The victims included one female resident, one male resident and one female R.A.. As predicted by aforementioned statistics, none of these individuals reported the incidents to university officials. Because one of the victims was male, I would like to assert here that both males and females are subject to sexual harassment. My statistics deal primarily with females because few studies have been done with males as the victims of sexual harassment. Moreover, because the teacher is automatically in a position of power over the student, male and female students are equally at risk.

Although the problem has been identified, it is difficult to determine a clear-cut definition of sexual harassment. Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972 are the foundations of universities' sexual harassment policies. Title VII was enacted by Congress to prevent sexual discrimination in the employer-employee relationship. Title IX was designed to prevent sexual discrimination in the educational environment. Because of the attention and development that Title VII has received, judges often turn to it when considering Title IX complaints. Pursuant to Title VII, the Equal Employment Opportunity Commission set guidelines which define sexual harassment as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature... when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) 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 (C.F.R. sec.1604.11).

Under Title VII, the courts have modified the EEOC definition in order to classify sexual harassment into two categories. First, harassment is considered "quid pro quo" when a supervisor grants employment benefits in return for sexual favors or when a supervisor threatens an employee for not complying with such

demands (Barnes 983). Second, "hostile environment" claims are raised when suggestive language and conduct interferes with the work performance of the employee and creates an offensive atmosphere (Henson 897). This latter claim must be of the severity and persistence as to seriously affect the employee's work. Because of the strict standard used in "hostile environment" claims, the courts have been reluctant to rule in this area.

Title VII applies exclusively to sexual harassment in the work place, and therefore students who are not employees of the university have no recourse under the statute. For protection, students must rely on Title IX which states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any educational program or activity receiving federal assistance" (USC sec.1681). Title IX also requires federally funded educational institutions to establish grievance procedures for allegations of discrimination (C.F. R. sec.106.8). If universities fail to establish these procedures, investigate the claims properly, or implement remedial measures, they can lose federal funds and be held for civil liability (Grove 1211).

In 1980, the court recognized that sexual harassment violates Title IX and that students can sue directly in federal court in *Alexander v. Yale University* in 1980. Arguing that their rights under Title IX had been violated, five former Yale students sued the university for failure to sufficiently investigate sexual harassment complaints. The court ruled that only one of their claims fell under Title IX protection. This claim was classified as "quid pro quo"

because the student's failure to respond to the sexual demands of an instructor resulted in a low grade. Five years later, a California court ruled in *Brown v. California State Personnel Board* that a single incident of sexual advance without a threat of harassment or promise of gain was not sufficient to constitute sexual harassment. This case suggests that in order to rule that a "hostile environment" exists, a pattern of sexual invitation must be proven.

The court's interest, both in assuring that colleges protect their students from sexual harassment and punishing those universities which do not, can be seen in several cases. In *Cockburn v. Santa Monica Community College District*, the court rejected the claim of a lab technician who argued the university over-reacted by dismissing him for admittedly grabbing and kissing a student employee. *Levitt v. University of Texas at El Paso* illustrates another example of the court's displeasure for sexual harassment by a professor. The case involves a tenured professor who was terminated after several complaints of sexual harassment were lodged against him. The court rejected the professor's claim the university's hearing on the charges violated his due process rights.

In *Korf v. Ball State University*, the court ruled that a university has the power to dismiss a professor found guilty of sexual harassment. The professor argued unconvincingly that his due process rights were violated because he was dismissed for unethical conduct. The courts further used Korf to indicate that student consent to a sexual encounter does not exempt the faculty member from disciplinary action. The court ruled that consent to a

relationship with a professor was irrelevant when the professor is "exploiting students for his private advantage."

When formulating guidelines for sexual harassment claims, many college campuses have relied on the EEOC definition of Title VII sexual harassment. The National Advisory Council of Women's Educational Programs definition of sexual harassment is also used by many universities. The Council states, "Academic sexual harassment is the use of authority to emphasize sexuality or sexual identity of a student in a manner which prevents or impairs that student's enjoyment of educational benefits, climates, and opportunities" (Somers 22).

Four requirements proposed by the Women Organized Against Sexual Harassment (1981) at the University of California, Berkeley have often been used by colleges and universities when adopting sexual harassment policies. Under these guidelines, the university should

(1) acknowledge sexual harassment as sex discrimination, not as isolated misconduct; (2) refer to a full range of harassment from subtle innuendos to assault; (3) refer to ways in which the context of open and mutual academic exchange is polluted by sexual harassment, and (4) refer to sexual harassment as the imposition of sexual advances by a person in a position of authority (Zalk 18).

In her article analyzing university definitions of sexual harassment, Crocker states that the guidelines proposed by the Women Organized Against Sexual Harassment should also

(1) recognize the legal basis for university action and place the problem in social context; (2) recognize the need for and value of specific examples that suggest the range of behaviors and experiences considered sexual harassment; (3) recognize the importance of sexual harassment for the integrity of the academy; and (4) recognize that sexual harassment occurs between people who have unequal power (Crocker 696).

Although there is disagreement as to its merits, many law schools and universities have included statements in their sexual harassment policies concerning consensual relationships. In the Association of American Law School's handbook, appropriate conduct for law school professors concerning student-teacher relationships is clear. The rules of the handbook state, "Sexual relationships between a professor and a student who are not married to each other or who do not have a preexisting analogous relationship are inappropriate whenever the professor has a professional responsibility for the student in such matters as teaching a course" (AASH).

The University of Iowa, for example, has adopted a policy which states that "No faculty member shall have an amorous relationship (consensual or otherwise) with a student who is enrolled in a course being taught by the faculty member or whose academic work (including work as a teaching assistant) is being supervised by the faculty member." The policy also recognizes that "[a]morous relationships between faculty members and students occurring outside the instructional context may lead to difficulties." Harvard takes an equally strong stand in their sexual harassment policy which states "amorous relationships that might be appropriate in

other circumstances are always wrong when they occur between any teacher or officer of the University and any student for whom he or she has a professional responsibility." The University of Minnesota states that consensual relationships between faculty and students are "very unwise" yet does not forbid them. At the University of California, however, the faculty senate defeated a proposal that would have added a statement declaring amorous relationships between faculty and students unethical. One faculty member stated that restrictions on amorous relationships between faculty and students violate both parties civil rights(McMillen 16). The dispute over amorous relationship policies at the University of California illustrates the potential conflict between the protection of students from sexual harassment and the individual's right to freely enter intimate relationships.

Once a sexual harassment claim has been reported, a well-designed grievance procedure seems to best address the problem. This procedure should be accessible and fair to students and faculty. Moreover, it should convey the message that sexual harassment will not be tolerated. According to Ronna Schneider, information should be made available to students concerning: whether the complaint should be written or oral, what information is needed in the complaint and who should be given the complaint (525). When designing a grievance policy, the institution must also consider whether or not to adopt a procedure designed exclusively for sexual harassment claims or to utilize existing Title IX procedures. The development of a special procedure for these claims usually results in a central area for keeping and retrieving data. Centralizing

information increases the likelihood that multiple complaints regarding the same individual will be recognized. Furthermore, consistency in decision-making is achieved when the same individuals hear and rule on all sexual harassment claims.

When a separate grievance procedure is used to handle sexual harassment claims, the complainant is generally allowed to choose between formal and informal grievance proceedings. Investigation, hearing and publicity are usually present when formal proceedings are used. During the investigation process, the students must be informed of whether or not their complaints will remain anonymous. Students must also be notified of their rights to be present at the hearing, be accompanied by an advisor, call witnesses for their side and confront witnesses called against them. Before the hearing is conducted, every effort should be made to insure that an impartial tribunal hears the complaint. Moreover, the university should assist the student in prosecuting the grievance. Finally, the grievance policy should contain an approximate length of time by which a decision should be reached.

Despite the structural advantages of formal proceeding, most individuals generally prefer informal proceedings. Most students who claim they have been sexually harassed wish only to eliminate the improper conduct and reverse any of its adverse effects. This is generally easier to accomplish through an informal complaint procedure. The American Association of Colleges believes that having the victim write a letter to the harasser is one of the most effective informal procedures for handling the situation. In the letter the victim should give a factual account of the incident, state

how the treatment made the individual feel and request that this behavior be stopped. Research by the group seems to indicate that the majority of offenders stop their behavior upon receiving the letter (Frieder 38).

Moreover, both the student and the faculty member seem more willing to confront the problem when a formal confrontation is prevented. Informal resolution to the problem can also include requesting the faculty member to change a student's grade, allowing the student to drop the course, granting a tuition remission or simply offering an apology. Because the faculty member may not be aware that his conduct is illegal, informal resolution increases the probability that the professor will learn from past mistakes and eliminate the behavior. Moreover, informal complaint procedures weed out unwarranted complaints before the professor's career is irrevocably damaged. Most importantly, informal processes permit the university to eliminate the harassment while still allowing the students, depending upon their preference, to either remain anonymous or participate in the process.

Not only should the university formulate effective formal and informal grievance proceedings, but it should also address sexual harassment on campus openly in an effort to educate faculty and students. Suggestions for dealing with sexual harassment awareness on campus include:

- (1) conducting information sessions for faculty, staff, and students on the policy toward sexual harassment on campus;
- (2) holding noontime brown bag seminars on the issue; (3)
- using peer educators among students; and (4) including

materials on sexual harassment in courses on human sexuality (Cyril).

Part of the new faculty and administrators orientation sessions at UT could include information concerning the legal definitions for acceptable and unacceptable behavior. The Hunter's Employee Assistance Program offers a four part series on sexual harassment for all faculty and administrators which includes presentations on sexual harassment, role playing and case studies based on legally defined behaviors. The objectives of the program are:

- (1) learning how informal and formal power or authority in the university setting is perceived by students and faculty, (2) learning the politics involved in such nonverbal gestures as touch, body position, personal space, and (3) learning the social meanings attributed to behaviors that legally constitute sexual harassment (Paludi).

By educating students, faculty and administrators about sexual harassment through pamphlets, articles and workshops, the probability that harassment will occur due to ignorance or misunderstanding is greatly diminished.

Sexual harassment policies from schools such as University of California, Berkeley; University of Iowa; University of Minnesota; and Harvard University have thus far been cited for their effective sexual harassment policies. In addition, I have included copies, at the end of this paper, of sexual harassment policies from several other universities. A discussion of the policy merits of each school will now follow. The University of Wisconsin, Madison has devised a

"Statement on Sexual Harassment Contact Persons" which is effective in removing the negative feelings of shame or guilt that victims often feel. The University of Massachusetts, Amherst presents a detailed outline of the steps involved in formal and informal resolution proceedings. In addition to clearly stating the objectives of the policies and definition of sexual harassment, California State University, Chico gives the names, campus addresses and phone numbers of individuals who can be contacted if a problem arises. The office of the Ombudsman at the University of California, Riverside distributes information on the options open to "victims wishing to resolve a sexual harassment complaint.

In my opinion, the University of California, Santa Cruz has the most effective and comprehensive sexual harassment policy and literature. The Chancellor of the University includes a personal message at the beginning of a pamphlet on sexual harassment which states:

"The university wants to provide you with fair and confidential advice and support. As a member of the campus community, you deserve the right to work and learn in an environment which is free from unwanted sexual behavior. The most important point the committee wishes to stress is that you can, and should, do something about it!...Sexual harassment will not be tolerated at the University of California, Santa Cruz."

The tone of the pamphlet continues to convey openness and concern as a summary of reports of alleged sexual harassment, methods by which the complaints were resolved and categories of the types of unwanted behavior for the previous year are printed. Next, the

complaint procedure is described in print and illustrated through the use of a flow chart. The pamphlet ends appropriately with the names and departments of the Charges and Education Committees in addition to the names and numbers of persons to contact for assistance. In sum, the University of California, Santa Cruz presents a policy which is unoffensive, informative and sympathetic to both students and faculty.

The list of schools that have been cited for effective sexual harassment policies indicates the prevalence of comprehensive policies in the north and the lack of such policies in the south. Southern schools, however, can not ignore the problem. The occurrence of blatant sexual harassment at Emory Law School in Atlanta, "the heart of the south", is only one example of the chaos and embarrassment that result from failure to establish policies and educate students and faculty about sexual harassment. In an attempt to prevent the embarrassment that Emory endured, the University of Tennessee should evaluate and improve its sexual harassment policy.

In most instances, the University mentions sexual harassment only under the general heading of discrimination using the wording of Title VII and EEOC. Although sexual harassment is given a separate heading in Hilltopics, the UT Student Handbook, the policy statement is vague concerning the handling of grievance procedures. Section D. states:

In determining whether alleged conduct constitutes sexual harassment, UT will look at the record as a whole and at the totality of the circumstance, such as the nature of the alledged

sexual advances and the context in which the incidents occurred. The determination of whether a particular alleged action constitutes sexual harassment will be made from the facts on a case-by-case basis.

The only literature that includes a discussion of sexual harassment is distributed to faculty members in the form of an Equal Employment Opportunity, Affirmative Action Personal Procedure Memorandum; a policy concerning harassment-sexual, racial and other; and the UT Affirmative Action Plan. While these policies are a good starting point for conveying specific rules and regulations, they neither establish what constitutes sexual harassment nor make this information accessible to the university population as a whole.

In the absence of such information, I have attempted to formulate a policy statement that educates the university community about sexual harassment. Moreover, I will explain the formal and informal grievance procedures followed by the university when handling sexual harassment claims. In addition to being used in Hilltopics, this policy could easily be adopted to pamphlet form to distribute to students.

The following policy statement is derived from several sources with an emphasis on existing university material concerning sexual harassment. The first paragraph of the policy and section I- Definition of Sexual Harassment- are taken directly from page 15 of the 1991-2 Hilltopics. This section of Hilltopics is included after the works cited page. Section II- Examples of Sexual Harassment- is based on a University of California, Santa Cruz pamphlet and also included in the index. Section III- Procedures, part A is again taken

directly from Hilltopics page 16. Section III, part B is a flow chart which I have tailored to the university's current procedures with a few modifications. Finally, Section IV is a listing of the individuals who can be contacted concerning sexual harassment questions or complaints.

This policy will conclude my paper for two reasons. First, the policy incorporates suggestions cited in the paper for formulating sexual harassment policies into the university's existing policy statements. Second, this policy reflects only subtle changes in the current policy. It does not include more progressive ideas concerning consensual relations found in many other policy statements. Instead this policy's focus is on educating the university community on what constitutes sexual harassment and the procedures used when investigating such claims. Because of this, it is my hope that the ideas presented in this paper will aid in the adoption of a policy such as this into university material concerning sexual harassment which is accessible to students and faculty.

UT Sexual Harassment Policy

The University of Tennessee, Knoxville, is committed to ensuring an environment which prevents sexual harassment. Sexual harassment by any member of the University is a violation of both law and University policy, and will not be tolerated in the University community. Both males and females can be perpetrators of sexual harassment, and both males and females can be victims of sexual harassment. Sexual harassment is a particularly sensitive issue which may affect any member of the University community and as such will be dealt with promptly and confidentially by the University administration.

I. Definitions of Sexual Harassment

A. Student Employees

Harassment on the basis of sex is a violation of Section 703 of Title VII of the Civil Rights Act of 1964. The Equal Employment Opportunity Commission (EEOC) guidelines define sexual harassment as follows: Unwelcomed sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitute sexual harassment when

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or

3. such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

B. All Students

Sexual harassment of students is a violation of Title IX of the Education Amendments of 1972, which prohibits sex discrimination in education. Unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature constitute sexual harassment when grades or educational progress are made contingent upon submission to such conduct, or when the conduct has the purpose or effect of interfering with the individual's academic performance, or of creating an intimidating, hostile, or offensive educational environment.

II. Examples of Sexual Harassment

Unlike voluntary relationships, sexual harassment exhibits itself in the form of unwanted attention, threats and/or coercion. The following types of behavior are examples of what may be considered sexual harassment:

- A. Invitations, propositions or pressure for dates or sex
- B. Threats which have either direct or indirect sexual connotations
- C. Sexual remarks relating to another person's body, clothing or sexual activities
- D. Jokes with sexual connotations
- E. Conduct that is sexual in nature which creates an offensive, hostile, or intimidating environment or interferes with an individual's performance in that environment

III. Procedures

- A. In determining whether alleged conduct constitutes sexual harassment, UT will look at the record as a whole and at the totality of the circumstance, such as the nature of the alleged sexual advances and the context in which the alleged incidents occurred. The determination of whether a particular alleged action constitutes sexual harassment will be made from the facts on a case-by-case basis.
- B. The following flow chart illustrates procedures which UT follows when handling sexual harassment complaints:

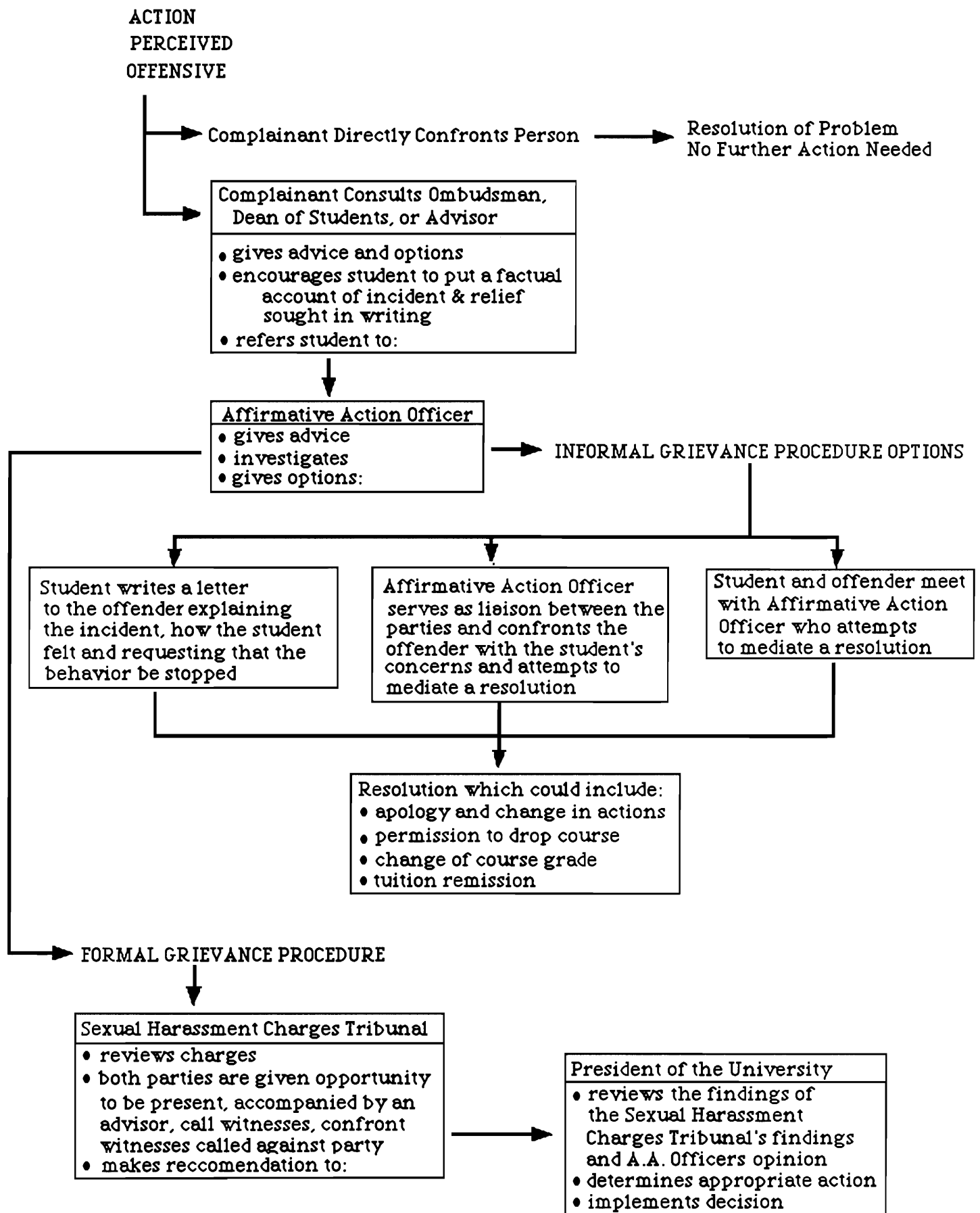
IV. Contact Persons

Dr. Jerry Askew 974-3179
Dean of Students

Dr. Suzanne Kurth 974-4311
Ombudsperson

Ms. Lola Dodge 974-8667
Affirmative Action
Director

U.T. RESOLUTION PROCEDURE FOR SEXUAL HARASSMENT COMPLAINTS



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Cases Cited:

Barnes v Costle. 561 F.2d 983. District Cir. 1977.
Brown v California State Personnel Board. 166 Cal. App. 3d 1151. 1985.
Grove City College v. Bell. 104 St. Ct. 1211. 1980.
Henson v. City of Dundee. 682 F.2d. 897 11th Cir. 1982.
Korf v Ball State University. 726 F.2d. 1222. 7th Cir. 1984.
Levitt v. University of Texas, El Paso. 759 F.2d. 1224. 5th Cir. 1985.

Sexual Harassment Policies Cited:

California State at Chico
Harvard University
University of California at Berkeley
University of California at Riverside
University of California at Santa Cruz
University of Iowa
University of Massachusetts
University of Minnesota
University of Tennessee, Hilltopics
University of Wisconsin at Madison

Interviews and Panel Discussions Cited:

Dr. Jerry Askew, Dean of Students, personal interview
Ms. Susan Cruth, Ombudsperson, personal interview
Panel Discussion on Sexual Harassment. Sponsored by the
Department of Residence Halls

Faculty members also have responsibilities which are vital to the success of the Honor Statement and the creation of a climate of academic integrity within the University community. Each faculty member is responsible for defining, in specific terms, guidelines for preserving academic integrity in a course. Included in this definition should be a discussion of the Honor Statement. Faculty members, at their discretion, may also encourage their students to acknowledge adherence to the Honor Statement by "pledging" all graded class assignments and exams. The form of pledge may include writing the Honor Statement on the assignment, signing the printed Statement, or simply writing "Pledge". Additionally, it will be the responsibility of each faculty member, graduate teaching assistant, and staff member to act on any violation of the Honor Statement. It is also incumbent upon faculty to maintain an atmosphere conducive to academic integrity by insuring that each quiz, test, and exam is adequately proctored.

Each administrator has the responsibility to maintain the Honor Statement and its associated review process.

POLICIES AND PROCEDURES

Policy on a Drug-Free Workplace

In support of the Drug-Free Workplace Act of 1988 (Public Law 100-690), and the Drug-Free Schools and Communities Act of 1989, The University of Tennessee is notifying all students, faculty and staff of the following University policy approved by the UT Board of Trustees on 21 June 1990.

It is the policy of The University of Tennessee to maintain a safe and healthful environment for its students and employees. Therefore, University policy prohibits the unlawful use, manufacture, possession, distribution, or dispensing of drugs ("controlled substances" as defined in the Controlled Substances Act, 21 U.S.C. 812) and alcohol on University property or during University activities.

Violation of this policy is grounds for disciplinary action — up to and including immediate discharge for an employee and permanent dismissal for a student. Federal and state laws provide additional penalties for such unlawful activities, including fines and imprisonment (21 U.S.C. 841 et seq.; T.C.A. 39-6-401 et seq.). Local ordinances also provide various penalties for drug- and alcohol-related which may include referral for legal prosecution or requiring the individual to participate satisfactorily in an approved drug use/alcohol abuse assistance or rehabilitation program.

Aside from any University policy considerations, the use of illicit drugs and/or the abuse of alcohol may be harmful to your health. Some of the health risks associated with such use/abuse assistance or rehabilitation program.

Individuals who are paid by The University of Tennessee from federal grants or contracts must notify the University of any criminal drug statute conviction for a violation within ten days of the University's receipt of notification.

Employees and their families needing treatment information should call their local Personnel Office, Employee Assistance Program, or the State of Tennessee Employee Assistance Program (800-468-8369). Students needing treatment information should contact their campus Student Affairs Office, student health center, or counseling center.

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Harassment on the basis of sex is a violation of Section 703 of Title VII of the Civil Rights Act of 1964. The Equal Employment Opportunity Commission (EEOC) guidelines define sexual harassment as follows: Unwelcomed sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitute sexual harassment when

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

3. such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

B. All Students

Sexual harassment of students is a violation of Title IX of the Education Amendments of 1972, which prohibits sex discrimination in education. Unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature constitute sexual harassment when grades or educational progress are made contingent upon submission to such conduct, or when the conduct has the purpose or effect of interfering with the individual's academic performance, or of creating an intimidating, hostile, or offensive educational environment.

II. Procedures

A. All UT employees (academic, staff exempt, staff non-exempt, other academic student employees) are responsible for not engaging in sexual harassment. Appropriate disciplinary action will be taken against individuals found to have violated UT's sexual harassment policy.

B. Any employee or applicant for employment may file a complaint alleging violation of the policy with the Affirmative Action Director, 403-C Andy Holt Tower. The complainant may, at his/her discretion, talk with a male or a female member of the Personnel Office Staff, rather than with the Affirmative Action Director, in submitting a complaint.

C. Any student who has been sexually harassed by a UT employee may file a complaint with the Ombudsman's Office, Affirmative Action Director, the Personnel Office or the Office of the Dean of Students.

D. In determining whether alleged conduct constitutes sexual harassment, UT will look at the record as a whole and at the totality of the circumstances, such as the nature of the alleged sexual advances and the context in which the alleged incidents occurred. The determination of whether a particular alleged action constitutes sexual harassment will be made from the facts, on a case-by-case basis.

E. Any complaints must be filed within 180 calendar days of the alleged violation.

Access To Campus Policy

The University's campuses and facilities shall be restricted to students, faculty, staff, guests and invitees except on such occasions when all or part of the campuses, buildings, stadium and other facilities are open to the general public.

Policy

1. All University personnel (students, faculty, administration and staff) shall provide acceptable identification (I.D. card, fee receipt, etc.) when requested to do so by police officers or by other University officials. University personnel who refuse to give acceptable identification shall be subject to appropriate University action.

2. Invitees, visitors and guests to The University of Tennessee, Knoxville campus shall provide identification and/or qualification if requested to do so by police officers or other University officials. Persons who are unable or unwilling to give acceptable identification and/or qualification shall be requested to leave the campus and if they refuse, shall be subject to lawful removal and prosecution including but not limited to the injunctive process.

3. On occasions when public events are held on campus, e.g., intercollegiate athletic contests, concerts, lectures, etc., the University shall be considered open to all persons desirous of attending such events.

4. Guests, visitors and invitees shall honor University rules and regulations concerning the use of and conduct in University facilities or grounds. Violation of rules and regulations may result in lawful removal from campus, prosecution and withdrawal of visitation privileges.

Definition of Terms

For interpretation of these policy statements the following definitions are applicable:

Student: A person who is registered for a credit course or person who is enrolled in a course or program for which no credit is given (correspondence study excluded).

Faculty Member: A University employee whose job classification is "academic."

Administrator: A University employee whose job classification is "administrative professional" or "administrative."

Staff Member: A University employee whose job classification is "clerical and supporting".

Invitee: A person who has official business at the University, e.g., delivery, construction workers, patient, client, student's parents or guardians, etc.

Guest-Visitor: A person invited by a University student or employee to visit the campus at a specific time, place and occasion. A person making repeated use of University facilities and/or grounds shall not be considered a guest.

Freedom of Assembly & Demonstration Policy

Because free inquiry and free expression are indispensable to the attainment of the goals of a university, The University of Tennessee encourages students to develop the capacity for critical judgment and to engage in an independent search for truth. The institution supports the rights of students and other members of The University of Tennessee community to express freely their views for or against actions and opinions with which they agree or disagree.

The University of Tennessee also recognizes a concurrent obligation to develop policies and procedures which safeguard this freedom of expression but which, at the same time, will maintain on the campus an atmosphere conducive to academic work, preserving the dignity and seriousness of University ceremonies and public exercises and respecting the private rights of all individuals. The following regulations are intended to enumerate the essential provisions necessary to reconcile freedom of assembly with responsibility in any campus meeting conducted for the purpose of expressing opinions of the participants.

Student gatherings may be conducted in areas which are generally available to the public, provided such gatherings:

1. Are conducted in an orderly and peaceful manner;
2. Do not obstruct in any way vehicular or pedestrian traffic;
3. Do not interfere with classes, scheduled meetings, events and ceremonies or with other essential processes of the University;
4. If inside a building are held in an assigned meeting room;
5. Have been approved in advance if they are to be held:
 - a. Within University buildings;
 - b. Within University stadia, or
 - c. Adjacent to residential or academic facilities of the campus.
- d. Meetings which would impose an unusual demand upon staff or facilities must have approval regardless of where they are held on campus.
6. Violations of the above University policy will result in appropriate disciplinary action.

THE UNIVERSITY OF TENNESSEE
KNOXVILLE



MEMORANDUM

TO: Faculty and Staff

FROM: John A. Sebert *JAS*

DATE: February 10, 1987

SUBJECT: Sexual Harassment

College of Law

Office of the
Dean

The campus administration recently promulgated a revised version of the UTK Affirmative Action Plan. For the first time, that Plan now contains express provisions and procedures concerning sexual harassment. Those provisions, which are found on page 48 of the UTK Affirmative Action Plan, are attached for your information and guidance. (If any of you would like to examine the entire Plan, it is available in Mary Ann Bledsoe's office.)

Note that the definition and procedures related to sexual harassment are intended to protect both employees and students. If any of you become aware of situations that raise concerns under these policies, I urge you to inform either me or Pat Hardin immediately, or to counsel the student or staff member involved to discuss the situation with one of us. Note also that the services of the Affirmative Action Director are available to deal with complaints of sexual harassment.

I am sure that each of us is already well aware of the impropriety of the types of conduct prohibited in the attached guidelines. Publication of these guidelines should be the occasion for each of us to heighten his or her awareness of the problem and resolve to avoid any behaviour that might be interpreted as inappropriate.

IX. SEX DISCRIMINATION GUIDELINES (60-2.13(h))

A. The following steps are taken to prevent discrimination on the basis of gender (41 CFR 60-20.1 - 60-20.6):

1. When engaged in recruiting activities, UTK recruits applicants of both sexes for all jobs unless sex is a bona fide occupational qualification.

2. Recruiting advertising in the media does not express a gender preference unless sex is a bona fide occupational qualification for the job.

3. A written personnel policy expressly indicates that there shall be no discrimination against employees because of sex.

4. Employees of both sexes shall have an equal opportunity to obtain any available job which he or she is qualified to perform, unless sex is a bona fide occupational qualification.

5. UTK does not make any distinction based on sex in employment opportunities, wages, hours, or other conditions of employment. No distinctions are made on the basis of sex in employer or employee rates of contribution for employment fringe benefits.

6. UTK makes no distinction between married or unmarried persons of one sex that is not made between married and unmarried persons of the opposite sex in employment or promotional opportunities, nor does the institution deny employment to women with young children, nor does the institution make any distinction based upon sex in determining age for termination from employment, as such determination is allowable by law.

7. UTK policies and practices assure appropriate physical facilities to both sexes. UTK does not deny employment or promotional opportunity to a person of either sex because of a lack of appropriate physical facilities.

8. UTK does not deny a female employee the right to any job she is qualified to perform in reliance upon a state "protective" law.

9. UTK policy will treat disability due to pregnancy or to pregnancy-related conditions in the same manner as any other disability, in compliance with the law.

10. Title 41 of the Code of Federal Regulations, Part 60-20.3(i) states: "Nothing in these guidelines shall be interpreted to mean that differences in capabilities for job assignments do not exist among individuals and that such distinctions may not be recognized by the employer in making specific assignments. The purpose of these guidelines is to ensure that such distinctions are not based upon sex."

11. UTK's usage of the concept of seniority, although limited, is not based upon gender.

12. UTK's wage rate schedules are not related to or based upon the sex of the employee. Salaries or wages paid to particular individuals are not based upon the sex of the individual.

13. UTK does not discriminatorily restrict one sex to certain job classifications.

14. UTK takes affirmative action to recruit women to apply for those jobs in which they have been underutilized. To enhance the opportunities for females to secure positions in management, UTK reaffirms its commitment to include females in management and leadership training programs.

15. At UTK, employees of both sexes have equal access to training programs and to educational assistance programs.

B. UTK is committed to ensuring an environment which prevents sexual harassment. UTK adopted the Equal Employment Opportunity Commission's guideline definition of sexual harassment as its guideline in defining sexual harassment. This guideline defines sexual harassment as unwelcomed sexual

-6814

SECTION 200
220-Pr1-4

THE UNIVERSITY OF TENNESSEE
PERSONNEL PROCEDURE

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EFFECTIVE: 04/01/77	SUBJECT:
Rev. (4): 07/01/88	Equal Employment Opportunity and Affirmative Action

Any UTK employee or applicant for UTK employment who feels that he or she has been discriminated against in any manner affecting his/her employment relationship because of race, sex, religion, national origin, age, handicap, or veteran status is entitled to seek relief through the following procedure. This EEO complaint procedure is available for use by all UTK employees or applicants for UTK employment, including employees or applicants for employment who are UTK students. In addition, any employee who feels that he or she has been discriminated against on the basis of sex, as covered by Title IX of the Higher Education Amendments of 1972, is entitled to seek relief through the following procedure.

Complaints must be filed with the Affirmative Action Director within 180 days of the alleged discrimination.

Sexual harassment is a direct violation of UTK policy and will not be tolerated. Alleged incidents of sexual harassment may be investigated through the Equal Employment Opportunity (EEO) complaint procedure, and immediate and appropriate corrective action will be taken should a complaint be substantiated. Guidelines regarding the definition of sexual harassment and the implementation of the prevention of sexual harassment at UTK are contained in an attachment to this procedure (UTK Affirmative Action Plan, Section IX. B., Sex Discrimination Guidelines). Any UTK employee who feels that he or she has suffered sexual harassment and/or intimidation due to unwelcome physical or verbal behavior may follow the EEO complaint procedure for investigation of the matter.

Students are entitled to seek relief from discrimination (other than as employees) through complaint procedures administered through the Office of the Vice Chancellor for Student Affairs.

1. In the event a complaint cannot be resolved, the complaint should be submitted in writing to the Affirmative Action Director. (This procedure is not intended to discourage efforts to resolve complaints through regular administrative channels.)
2. The Affirmative Action Director will report the complaint to the appropriate dean or director who will attempt to resolve the matter informally.
3. If the informal resolution is not possible, the Provost or appropriate vice chancellor will appoint an investigative committee to examine the complaint. The Affirmative Action Director will chair the committee. The members of each committee will have the qualities of impartiality and fairness and will be UTK employees.

advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or (3) 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 (29 CFR, 14, 1604.11). This guideline is implemented at UTK in the following manner:

hostile
environment
NOT actually
hostile
in court

1. All UTK employees (academic, staff exempt, staff non-exempt, other academic, student employees) are responsible for not engaging in sexual harassment. Appropriate disciplinary action will be taken against individuals found to have violated UTK's sexual harassment policy.

2. Any employee or applicant for employment may file a complaint alleging violation of the above policy with the Affirmative Action Director, 403-C Andy Holt Tower. Complaints of sexual harassment follow the regular UTK complaint procedures as outlined on pages 47-49 of this Plan and in Appendix C. The complainant may, at his/her discretion, talk with a male or a female member of the Personnel Office staff, rather than with the Affirmative Action Director, in submitting the complaint.

3. Any student who has been sexually harassed by a UTK employee may file a complaint with the Ombudsman, Ombudswoman, Affirmative Action Director, or the Personnel Office. *Dean d Students*

4. Both males and females can be perpetrators of sexual harassment, and both males and females can be victims of sexual harassment.

5. In determining whether alleged conduct constitutes sexual harassment, UTK will look at the record as a whole and at the totality of the circumstances, such as the nature of the alleged sexual advances and the context in which the alleged incidents occurred. The determination of whether a particular alleged action constitutes sexual harassment will be made from the facts, on a case-by-case basis (1604.11(b)).

THE UNIVERSITY OF TENNESSEE
PERSONNEL PROCEDURE

Page 4 of 4

EFFECTIVE: 04/01/77	SUBJECT: Equal Employment Opportunity and Affirmative Action
Rev. (4): 07/01/88	

4. The Affirmative Action Director will interview the complainant, and together with the investigative committee, conduct an investigation, including appropriate documents. The investigation will include a hearing if (a) the investigative committee deems it necessary or (b) either the complainant or the party against whom the complaint has been lodged requests it. If a hearing is held, it will afford both parties the opportunity to present evidence and testimony in their favor and to be confronted with evidence and testimony against them.
5. The committee will reach a conclusion as to whether discrimination has or has not been presented as charged and prepare a statement giving (a) the conclusion and (b) the evidence which supports the conclusion reached. The Affirmative Action Director will transmit the committee's statement, as a recommendation, to the Provost or appropriate vice chancellor together with the investigation files.
6. The Provost or appropriate vice chancellor will review the committee's statement and the investigation file, make a determination, and transmit the decision to the complainant in writing.
7. If the complainant feels that a satisfactory resolution has not been reached, he/she may appeal to the Chancellor, in writing, within ten days following receipt of the decision of the Provost or appropriate vice chancellor.
8. The Chancellor will review the matter, make a determination, and notify the complainant in writing of the decision.
9. Appeals from the Chancellor's decision should be directed to the Executive Assistant to the President of the UT System, who serves as the University-wide Affirmative Action Officer, within ten days following receipt of the notification of the Chancellor's decision. The By-laws of the University (Article V, Section 7) provide that any individual may ultimately appeal to the Board of Trustees, through the President.

SUBJECT: Harassment - Sexual, Racial, and Other

I. The purpose of this guideline is to supplement Board policies 2:02:10:01 and 5:01:02:00 relative to the orderly resolution of charges of sexual, racial, or other forms of harassment at the institutions, area vocational-technical schools and office of the State Board of Regents. Fair and prompt consideration shall be given to all charges of such harassment in accordance with the procedures set forth below. These procedures may be utilized by any employee, applicant for employment or student who believes he or she has been subjected to sexual, racial or other forms of harassment.

II. General Statement

Sexual harassment and racial harassment have been held to constitute a form of discrimination prohibited by Title VII of the Civil Rights Act of 1964, as amended and Title IX of the Educational Amendments of 1972. Other types of harassment are prohibited by applicable law. An institution or school may be held liable pursuant to Title VII and/or lose federal funds pursuant to Title IX for failure to properly investigate and remedy claims of sexual or racial harassment.

- A. Generally, sexual harassment may be defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when one of the following criteria is met:
1. submission to such conduct is made either explicitly or implicitly a term or condition of the individual's employment or of the individual's status in a program, course or activity;
 2. submission to or rejection of such conduct by an individual is used as a basis for employment decisions, a criterion for evaluation, or a basis for academic or other decisions affecting such individual; or
 3. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or educational experience or creating an intimidating, hostile or offensive work or educational environment.

Whether the alleged conduct constitutes sexual harassment depends upon the record as a whole and the totality of the circumstances, such as the nature of sexual advances in the context within which the alleged incident occurred.

- B. Generally, racial harassment is defined as any person's conduct which unreasonably interferes with an employee's or student's status or performance by creating an intimidating, hostile, or offensive working or educational environment. Harassment on the basis of race, color, or national origin, includes offensive or demeaning treatment of an individual, where such treatment is based typically on prejudiced stereotypes of a group to which that individual may belong. It includes, but is not limited to, objectionable epithets, threatened or actual physical harm or abuse, or other intimidating or insulting conduct directed against the individual because of his/her race, color, or national origin. Title VII requires employers to take prompt action to prevent bigots from expressing their opinions in a way which abuses or offends their coworkers.
- C. Generally, harassment on the basis of religion, handicap, or other protected status includes any conduct which has the purpose or has the reasonably foreseeable effect of interfering with an individual's academic efforts, employment, or participation in institutionally sponsored activities. Such harassment also includes any activity which creates an intimidating, hostile or demeaning environment.

III. Procedures

The following procedures are intended to protect the rights of the aggrieved party as well as the party against whom an allegation of harassment is lodged, as required by state and federal laws. Each charge must be properly investigated and, when warranted, appropriate disciplinary action taken against the individual charged. The Office of General Counsel shall always be consulted prior to investigation.

In situations that require immediate action, because of safety or other concerns, the institution can take any disciplinary action which is appropriate, e.g., suspension with pay, pending the initiation of the investigation by the EEO/AA officer. The office of General Counsel should be contacted before any immediate action is taken.

Each employee, applicant for employment and student shall be notified of the name, office, and telephone number of the designated EEO/AA or Title IX officer(s) responsible for assuring compliance with this guideline, Board policy, and federal law.

A. Preliminary Investigation

1. Any student, applicant for employment or employee who believes he or she has been subjected to harassment at an institution or school shall present the charge to the designated EEO/AA or Title IX officer responsible for compliance with Title VII of the Civil Rights Act of 1964 or Title IX of the Education Amendments of 1972. Where the charge of harassment is against the EEO/AA, the President/Director will identify an individual who has been trained in investigating such claims, such as the Student Affairs Officer or even the EEO/AA of another institution/ school, to investigate the claim and carry out the responsibilities assigned to the EEO/AA pursuant to the within guideline. (Where the charge of harassment is by one student against another student, the Student Affairs Office will investigate and resolve the complaint in accordance with student disciplinary procedures.)
2. The EEO/AA will make every attempt to get the aggrieved party to provide the charge in writing. The charge shall include the circumstances giving rise to the allegations and the dates of the alleged occurrences. The charge shall be signed by the aggrieved individual. However, where the aggrieved individual refuses to sign a written charge, the EEO/AA will still investigate the allegations, and take appropriate action. Based on the findings of this investigation, the EEO/AA may take appropriate action which may or may not be the steps outlined in the remaining paragraphs of this guideline.
3. The EEO/AA or Title IX officer shall notify in writing the charged party within five (5) working days of receipt of the charge. The charged party shall respond in writing to the charge within five (5) days of notification.
4. The EEO/AA or Title IX officer shall meet with both parties for the purpose of resolving the charge informally.
5. The EEO/AA or Title IX officer shall conduct an investigation of the charge and submit a report to the president or area school director, systemwide EEO/AA officer, and the parties within twenty (20) working days following receipt of the charge. Each report shall outline the basis of the charge, including the dates of

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Pg 3
Charge
submitted
in writing

the alleged occurrences, the response of the charged party, the findings of the EEO/AA or Title IX officer and all attempts to resolve the charge informally and recommendations regarding disposition of the charge. If following an investigation the EEO/AA or Title IX officer finds there is no substantial evidence to support the charge, the parties shall be so advised in writing.

6. If the investigation reveals that there is evidence to support the charge, the president/director may meet with the charged party and/or the charging party and attempt to resolve the problem by agreement. In addition, the charged party shall be advised of his/her right to a hearing pursuant to the procedures set forth below. A charged party may request a hearing within ten (10) days following receipt of the report.

B. Hearing

1. If the charged party requests a hearing, he or she shall be advised of hearing procedures available under Board of Regents Policy No. 1:06:00:05, Uniform Procedures for Cases Subject to Tennessee Uniform Administrative Procedures Act, and of the established institutional or area school procedures available for resolution of the matter in question. The party requesting a hearing shall be given the opportunity to elect the procedures pursuant to which the matter shall be heard.
2. When an individual elects to proceed under the established institution or area school procedures for resolution of the matter, the election should be in writing and signed by the individual making the election and should expressly waive the procedures available under the TUAPA as to the matter in question. When a party elects to proceed pursuant to established procedures at the institution or area school, these procedures shall include the following minimal requirements:
 - a. Notice of the charge to the party or parties.
 - b. The right of the party or parties to present his or her case.
 - c. The right to be accompanied by an advisor.
 - d. The right to call witnesses in his or her behalf.
 - e. The right to confront witnesses against him or her.

In addition, in any case where the president or area school director makes a decision which is adverse to the charge or claim of either party, the president or area school director shall advise the person of any right of appeal provided by Board policy.

3. Individuals electing to proceed under the TUAPA shall be referred to the appropriate institution or area school official responsible for commencement of actions under the TUAPA as provided in Board Policy No. 1:06:00:05.
4. When a charge involves a tenured faculty member, the same informal and formal procedures set out above shall be utilized. Tenured faculty members shall have the same right to elect hearing procedures as set out in sections A - C. Where the selected hearing procedure results in a finding that sexual harassment exists and the president determines that the harassment constitutes adequate cause for termination, then the matter will proceed under either the institution policy for termination of tenure or SBR policy 5:02:03:00. Under SBR policy the matter shall proceed under section III.d. on page 16 of 20.

Source: November 14, 1984 SBR Presidents Meeting and November 16, 1984 AVTS Sub-Council meeting. Revised: August 16, 1988 Presidents Meeting. Revised: February 14, 1989 - Presidents' Meeting

STATE BOARD OF REGENTS

SUBJECT: Equal Employment Opportunity, Affirmative Action
and Discrimination

I. Introduction

It is the intent of the State Board of Regents that the Board and all of the institutions and area vocational-technical schools within the State Board of Regents System shall fully comply with Executive Order 11246, as amended, the Rehabilitation Act of 1973, as amended and the Vietnam Era Veterans Readjustment Act of 1974, as amended, and all regulations implementing those laws and orders, for the promotion and insuring of equal opportunity for all persons without regard to race, color, religion, sex, national origin, handicap status, age or status as a qualified disabled veteran or veteran of the Vietnam era. It is the intent of the Board that each campus of the Board shall be free of harassment on the basis of sex, race, color, religion, national origin, age or any other protected status. It is the intent of the Board that the Board and the institutions and schools in the System shall fully comply with Titles VI and VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, as amended, the Equal Pay Act of 1963, as amended, the Age Discrimination in Employment Act of 1967, as amended, the Age Discrimination Act of 1975, the Pregnancy Discrimination Act, applicable state statutes and all regulations promulgated pursuant thereto.

II. Statement of Policy

It is and has been the policy of the State University and Community College System of Tennessee to maintain each campus as a place of work and study for faculty, staff, and students, free of sexual harassment and harassment on the basis of race, color, religion, national origin, age or other protected status. Harassment is a form of discrimination and harassment in the workplace or the educational environment is unacceptable conduct and will not be condoned.

The Board of Regents hereby reaffirms the policy of the State Board of Regents System, and all institutions and schools included therein, that the System will not discriminate against

any employee or applicant for employment because of race, color, religion, national origin, sex, except where sex is a bona fide occupational qualification, handicap, where the person is a qualified handicapped person, age, or because of their status as a qualified disabled veteran or veteran of the Vietnam era.

Similarly, the System shall not, on the basis of a protected status, subject any student to discrimination under any educational program. No student shall be discriminatorily excluded from participation nor denied the benefits of any educational program on the basis of a protected status.

The System will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, except where sex is a bona fide occupational qualification, handicap, where the person is a qualified handicapped person, age or because of their status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to, actions to:

- (1) Recruit, hire, train, and promote persons in all job titles, without regard to any of the foregoing prohibited factors;
- (2) Base decisions on employment so as to further the principle of equal employment opportunity;
- (3) Insure that promotion decisions are in accord with principles of equal employment opportunity by imposing only valid requirements for promotional opportunities; and
- (4) Insure that all personnel actions such as compensation, benefits, transfers, layoffs, return from layoff, and institution or school sponsored training, education, tuition assistance, and social and recreation programs, will be administered without regard to any of the foregoing prohibited factors.

III. Administrative Responsibility

The Chancellor shall designate the person on the staff of the Board who shall serve as the Equal Employment Opportunity and Affirmative Action Program Officer for the System. The Officer shall insure that the equal employment opportunity and affirmative action program plans are prepared by each institution and school in the System and that these plans are effectively administered within the requirements of this policy and applicable laws and regulations. The Officer shall receive,

review, and investigate equal employment opportunity complaints and appeals and make recommendations to the Chancellor regarding their disposition. The Officer also shall review and evaluate the success of the Equal Employment Opportunity and Affirmative Action Program and make recommendations to the Chancellor concerning desirable changes. The Officer shall receive and investigate all sexual harassment complaints and all other harassment complaints based on race, color, religion and national origin. The officer will be responsible for insuring that complaints involving discrimination or harassment between students are investigated and resolved by the student affairs office.

Each institution president and school director shall be responsible for the development and implementation of the equal employment opportunity and affirmative action program on each campus. In carrying out this responsibility, the president or director shall comply with the following:

- (a) Appoint an equal employment opportunity officer who will be responsible for promoting and assuring compliance with this policy and with all applicable laws and regulations, receiving and investigating complaints, reviewing the effectiveness of the program and recommending improvements to the president or director.
- (b) Insure that affirmative action plans are developed and implemented as a means of aggressively pursuing the principles of equal employment opportunity.
- (c) Develop affirmative action goals and timetables directed toward correcting situations contributing to the underutilization or inequitable treatment of minority or women employees in the institution or school.
- (d) Provide positive leadership in the implementation of the affirmative action program on the campus and insure that appropriate attention is devoted to the program in staff and faculty meetings. This should include informing all management officials and supervisors that their performance evaluation will be partially determined by the effectiveness of their participation in the equal employment opportunity program.
- (e) Designate a person on the campus to be responsible for the gathering and reporting of data related to the equal employment opportunity program.
- (f) Assure policies and procedures are instituted to deal with all forms of harassment, including receiving and investigating complaints and recommending necessary action to the president or director. Insure that complaints involving discrimination or harassment between students are

investigated and resolved by the Student Affairs Office which resolves all student disciplinary problems.

- (g) Designate a person on campus to develop and implement educational efforts regarding all types of harassment.

IV. Equal Employment Opportunity and Affirmative Action Programs

Each institution and school shall develop and maintain an equal employment opportunity and affirmative action program, which shall comply with the requirements of policy and all applicable laws and regulations. The programs shall include, but not be limited to, the following: (1) development or reaffirmation of the institution's or school's equal employment opportunity policy in all personnel actions; (2) formal internal and external dissemination of the policy; (3) establishment of responsibilities for implementation of the program; (4) identification of problem areas by organizational units and job classifications; (5) establishment of goals and objectives by organizational units and job classifications, with timetables for completion; (6) development and execution of action-oriented programs designed to attain established goals and objectives; (7) assurance of compliance of personnel policies with the sex discrimination guidelines; (8) active support of local and national community action and community services programs designed to improve the employment opportunities of minorities and women; (9) internal audit and reporting systems designed to insure compliance and to permit monitoring of the program; and (10) internal complaint procedures designed to expeditiously process and resolve complaints and grievances by employees or applicants for employment.

The equal employment opportunity and affirmative action program shall be updated annually, and reports of progress in meeting the established goals and objectives shall be submitted at least annually as directed by the Equal Employment Opportunity Officer of the System.

V. Nepotism Policy

Pursuant to Chapter 789 of the Tennessee Public Acts of 1980, the following shall be the nepotism policy for the State Board of Regents System:

- (a) Effective July 1, 1980, no employees of an institution or school who are relatives shall be placed within the same direct line of supervision whereby one relative is responsible for supervising the job performance or work activities of another relative; provided, however, that to the extent possible, this policy shall not be construed to prohibit two or more such relatives from working for the same institution or school. For the purposes of this policy, a "relative" means a parent, parent-in-law, child, spouse, brother, foster brother, sister, foster sister, grandparent,

grandchild, son-in-law, brother-in-law, daughter-in-law, sister-in-law, or other family member who resides in the same household.

- (b) When employees of an institution or school become in violation of subsection (a) as a result of marriage, the violation shall be resolved by means of transfer within the institution or school, transfer to another institution or school, or resignation as may be necessary to remove the violation. If transfer alternatives are available, the employees shall be given the opportunity to select among the available alternatives; provided that if the employees are unable to agree upon any such alternative within sixty days, the appointing authority shall take appropriate action to remove the violation.
- (c) In the case of employment relationships which would otherwise violate subsection (a) but which were in effect prior to July 1, 1980, the employment of the employees shall not be affected by this policy, provided that the institution or school takes appropriate action to insure that employees neither initiate nor participate in institutional or school decisions involving a direct benefit (retention, promotion, salary, leave, etc.) to a relative.
- (d) Each institution and school shall apply the foregoing in a nondiscriminating manner, and shall insure that the implementation of this policy does not adversely affect employees of one sex over those of the opposite sex.

VI. Sexual Harassment

It is the policy of the State Board of Regents that, pursuant to Title VII of the Civil Rights Act of 1964 and regulations adopted pursuant thereto, no institution or area school shall condone sexual harassment of employees, applicants for employment or students and each institution and area school shall affirmatively address all allegations of sexual harassment. Compliance with this policy shall be effectuated through procedures established in accordance with Section III of this policy and guidelines issued by the Chancellor.

VII. Harassment On The Basis Of Race, Color, Religion, National Origin Or Other Protected Status

It is the policy of the State University and Community College System that pursuant to state and federal law, no institution or area school shall condone any harassment of employees, applicants for employment, or students based on race, color, religion, national origin, or any protected status. Each institution and area school shall affirmatively address all allegations of harassment pursuant to Guideline P-080.

Any complaints of harassment based on race, color, religion, national origin, or other protected status shall be made to the institution affirmative action officer who shall investigate all complaints. (Except in the case of student harassment by other students, the Student Affairs Officer will resolve the complaint.)

Guideline P-080 must be followed in any harassment claim. Each institution shall initiate efforts to educate personnel and students on the issues of discriminatory harassment.

Source: SBR Meetings, August 17, 1973; September 26, 1980;
September 30, 1983; December 14, 1984; March 17, 1989

CALIFORNIA STATE UNIVERSITY, CHICO
Chico, California

December 19, 1989

EXECUTIVE MEMORANDUM

89-35

TO: Campus Community

FROM: Robin S. Wilson 
President

SUBJECT: Revisions to EM 85-01,
(Policy on Sexual Harassment)

Upon recommendation of the Faculty Senate and concurrence of Provost Stairs, I approve revisions to EM 85-01, Policy on Sexual Harassment, for immediate implementation. This document supercedes EM 85-01.

Policy on Sexual Harassment

(Reference: Chancellor's Executive Order No. 345)

Objectives of Policy

Sexual harassment interferes with a student's or employee's academic career or work performance and creates an atmosphere of intimidation and hostility that the University cannot permit.

The objectives of this policy on sexual harassment and procedures it establishes are to

1. prevent actual or apparent sexual harassment in the University;
2. undertake investigations of alleged sexual harassment;
3. take appropriate formal or informal action as a result of such investigations; and
4. disseminate information concerning issues, rights, procedures, and where appropriate, outcomes to persons affected.

Policy

1. California State University, Chico endeavors to provide an environment conducive to growth in mind, spirit, and human sensibility and preclusive to exploitation of students or employees. Sexual harassment is inimical to such an environment.
2. All current and new students, staff, and faculty shall be informed of the university's policies and procedures regarding sexual harassment.

Definition

Sexual harassment includes such behavior as unwanted sexual advances, requests for sexual favors, and other verbal or physical conduct of a salacious nature directed towards an employee, student, or applicant when one or more of the following circumstances are present:

- Submission to or toleration of sexual harassment is an explicit or implicit term or condition of appointment, employment, admission, academic evaluation, or organizational or group participation;
- Submission to or rejection of such conduct is used as a basis for a personnel decision or an academic evaluation affecting an individual;

- The conduct has the purpose or effect of interfering with an employee's work performance or creating an intimidating, hostile, offensive, or otherwise adverse working environment;
- The conduct has the purpose or effect of interfering with a student's academic performance, creating an intimidating, hostile, offensive, or otherwise adverse learning environment, or adversely affecting any student.

In determining whether conduct constitutes sexual harassment, the circumstances surrounding the conduct should be considered.

Informal Inquiry

1. The President will designate several persons to receive informal inquiries from students or employees regarding possible incidents of sexual harassment. Persons with such questions may choose to discuss their concerns with one or more of these designees.

These designees will be charged with supplying information and clarification on the nature and definition of sexual harassment and the administrative mechanisms for dealing with complaints. Their function is informal and advisory, aimed solely at aiding complainants to determine if incidents as described constitute grounds for complaint and, if so, how complaints are to be filed.

Designees will neither investigate nor adjudicate complaints of sexual harassment.

2. At any stage in the inquiry/complaint process, persons initiating an inquiry have the right to be accompanied by a person of their choice when discussing such alleged incidents.
3. Discussions at the informal inquiry are confidential. Nothing related to this informal process may be introduced into the RTP process or performance evaluation of the accused.

Persons who believe they are victims of harassment may meet with the presidential designees. They also have a wide variety of other persons from whom to seek redress, including supervisors, academic administrators, and specialists associated with the Vice President for Student Affairs Office, the Coordinator of Student Judicial Affairs, the Associate Vice President for Faculty and Staff Affairs, the University Affirmative Action Director, and the Office of Personnel. (See Attachment 1.)

Complaints

Complaints against employees should be submitted to the Associate Vice President for Faculty and Staff Affairs. Where such an approach is deemed

appropriate, the Associate Vice President or the ad hoc administrative or supervisory designee will attempt to resolve the matter by means of confidential conference with the employee whose alleged behavior is the cause for the complaint. When a complaint appears to require formal disciplinary action, the Associate Vice President will initiate such action under the applicable disciplinary procedures.

Complaints by or against students should be submitted to the Coordinator for Student Judicial Affairs, who will investigate the complaints and initiate appropriate informal action.

Disciplinary Action

In those cases which cannot be resolved satisfactorily, punitive action may be initiated in accord with the disciplinary procedures applicable to the alleged perpetrator.

These procedures vary among the contract units in the CSU System, i.e., faculty, staff, administrators.

For this action, if sustained, the individual may be suspended without pay, demoted, or dismissed. Students are also subject to similar disciplinary procedures which would mean disenrollment from class or expulsion from the University.

Implementation

1. Responsibility for full implementation of this policy lies with the university president or designee.
2. To ensure awareness of this policy, brochures will be developed and widely circulated among students and employees. The brochures should be relatively brief, visually appealing, contain a simplified statement of the university policy, provide examples of situations covered by this policy, and include information on how to proceed when an alleged sexual harassment situation has occurred.
3. The beginning of each fall semester the university president will distribute a letter to all students and employees indicating the university's concern that sexual harassment damages the learning environment.
4. A central phone number will be established to provide information about sexual harassment and, if possible, the number should be that of an office having a related function. Such information should include the location of appropriate offices to be contacted in case sexual harassment has occurred and the names of persons appointed by the university president to handle sexual harassment claims. Their phone numbers should be widely distributed.

5. Workshops will be developed for supervisory personnel (deans, chairs, staff supervisors). The purpose of these workshops is to sensitize supervisory personnel to issues of sexual harassment. Supervisory personnel will transmit such information to persons under their direction. All materials used at these workshops will be made available by the University to departments or units where desired.
6. New faculty and staff orientations will include university policies on sexual harassment.
7. This policy and its implementation will be reviewed by the General Policies Committee at three-year intervals.

ATTACHMENT 1

Student Judicial Affairs

Lisi Porter, Coordinator
Kendall 110 x6131

Faculty and Staff Affairs

Charles Adams, Associate Vice President
Kendall 224 x5029

Affirmative Action

Shirley A. Smith, Director
Kendall 103E x5201

Persons Designated to Receive Formal Inquiries

Barbara Peevers, University Ombudsman
101 Salem Street, Suite #202 x5522

Lisi Porter, Coordinator
for Student Judicial Affairs
Kendall 110 x6131

Beverly Verlinde, Director
Employee Assistance Program
101 Salem Street, Suite #3 x4645/4596

Charles Adams, Associate Vice President
Kendall 224 x5029

TWO-PART RESPONSE TO COMPLAINTS OF SEXUAL HARASSMENT

1. What are the complainant's goals: To have the harassment stop, be transferred out of a situation, request disciplinary action, file with an outside agency or file suit, have the University see that no one else is harmed in the same way, etc.

Assistance with these goals is available from sexual harassment information center personnel and/or from Complaint Resolution Officers.

Complaints of sexual harassment can be addressed even when there are limitations: when the complainant requires anonymity, when the harasser is never identified, when there is evidence of harassment but not proof.

Governed by UC Policy on Sexual Harassment and UCR Procedures for Sexual Harassment Complaint Resolution.

2. What are the University's goals and obligations: The University has a legal obligation to prevent sexual harassment and to take corrective action in response to any sexual harassment it knows about. In some situations, what was done in Part 1 will not be sufficient.

Discipline is governed by various policies: Faculty Code of Conduct, various memoranda of understanding, Student Discipline Procedures, etc.

Discipline depends on a written signed complaint which is provided to the alleged harasser. It can be carried out informally, but the accused in many cases will have a right to a formal hearing.

University of California, Riverside
Office of the Ombudsman
January 1988

:she.form

OPTIONS FOR THE RESOLUTION OF SEXUAL HARASSMENT COMPLAINTS

I. Getting the harassment to stop

Harassee express directly to harasser that the behavior is unwanted, intimidating, hostile, etc., and must stop, orally or in writing, alone or with witness/supporter. The Mary Rowe letter.

Same expressed via a third party, such as harassee's advisor or supervisor, Affirmative Action Officer, Ombudsman, Counseling Center staff, Women's Resource Center staff, harasser's supervisor or colleague, Personnel Office staff, etc.

Same expressed indirectly, via fliers in the halls of the department, education efforts directed to the department/unit as a whole (videos, speakers, handouts), policy mailed anonymously to the alleged harasser, etc.; specific alleged behavior can be used as one of the examples.

Same expressed indirectly as a warning from the unit head, specifying that there had been a complaint, warning that sexual harassment would be disciplined severely, and detailing the policy with relevant examples.

Formal complaint

II. Elements of a resolution available to complainant:

Have the right to information about resolution, eg., information about confidential disciplinary actions taken against the harasser, etc.

Formal apology, oral or written

Initiation of disciplinary actions against the harasser -- letter of warning, censure, suspension with or without pay, dismissal, etc.

Ask for harasser's resignation

Corrections of or deletions from harassee's academic/personnel records

Reimbursement of any costs -- legal fees, counseling, additional quarters of registration fees/tuition, etc.

Compensatory damages re: harassee's losses -- loss of potential pay, time, pain and suffering, etc.

II. Elements of a resolution, cont'd:

Punitive damages, as a penalty, to insure that the harasser takes notice, and also any administrator who should have but did not offer relief

Front pay -- \$ related to future loss of earnings

Access to counseling for harassee, or require for harasser

Education for unit (staff, faculty, students) re: policy and appropriate responses to incidents of sexual harassment directed toward oneself or others, with the goal of preventing a similar situation from occurring again

Restrictions on the activities of the harasser -- change of job description, exclusion from certain activities or certain places, etc.

University of California, Riverside
Office of the Ombudsman
June 1989

INTRODUCTION

Sexual harassment is a serious issue which has implications for everyone at UC Santa Cruz, whether you are a student, staff, faculty, teaching assistant, or administrator. Sexual harassment is an abuse of power which confuses the boundaries of personal and professional roles. It is the breach of trusting relationships which should exist between members of the academic community. Psychologically, the impact on victims can be devastating. It can change the course of a career and can poison the entire ethos of academic and residential life. Sexual harassment is prohibited by U.S. and California law, University of California policy, and is a violation of the Faculty Code of Conduct. /

The role of the Sexual Harassment Education Committee is to provide a vehicle for educating the entire UC Santa Cruz community about the complexities of sexual harassment through the examination of ethics, gender and power issues, empowerment of individuals, and communication skills. The Sexual Harassment Education Committee does not directly handle complaints, but makes information available about complaint resolution procedures.

The University wants to provide you with fair and confidential advice and support. As a member of the campus community, you deserve the right to work and learn in an environment which is free from unwanted sexual behavior. The most important point the committee wishes to stress is that you can, and should, do something about it!

SEXUAL HARASSMENT
WILL NOT BE TOLERATED
AT UC SANTA CRUZ

A handwritten signature in black ink, appearing to read "Robert B. Stevens", followed by a long horizontal line that tapers to a point on the right.

Robert B. Stevens
Chancellor

SUMMARY OF REPORTS OF ALLEGED SEXUAL HARASSMENT - 1986-87

The following statistics are based on complaints of alleged sexual harassment which were received and documented by the campus sexual harassment advisers, complaint resolution officers, and the Ombudsman's office.

Categories of members of the campus involved as alleged harassers and alleged recipients of sexual harassment:

- 4 Faculty behavior toward student
- 2 TA behavior toward student
- 2 Staff behavior toward student
- 2 Staff supervisor behavior toward staff
- 2 Staff behavior toward staff
- 1 Faculty behavior toward staff
- 1 Student behavior toward faculty
- 1 Student behavior toward student
- 1 Contract employees behavior toward students

Methods by which complaints were resolved:

- 7 Complaint investigated and resolved through intervention by appropriate administrator. Resolutions ranged from one year suspension to warning by supervisor.
- 5 Resolved by complainant through advice.
- 2 Complaint investigated and resolved through mediation.
- 1 Complaint investigated and referred to Charges Committee. Charges Committee recommended appropriate action by unit head.
- 1 Complainant chose not to pursue.

Categories of types of unwanted behavior reported:

- 5 Unwanted behavior of a sexual nature which has the purpose or effect of unreasonably interfering with an individual's performance, or creates an intimidating, hostile, or offensive environment.
- 4 Unwanted teasing, jokes, remarks or questions of a sexual nature, or unwanted sexually suggestive looks and gestures.
- 4 Unwanted pressure for dates, letters or phone calls of a sexual nature, or unwanted pressure for sexual favors.
- 3 Unwanted deliberate touching, leaning over, cornering, pinching, kissing, hugging, or other inappropriate behavior.

Because people often fail to complain to an adviser or complaint resolution officer, the absence of documented statistics may falsely indicate the absence of a problem. Therefore, individuals are encouraged to contact members of the sexual harassment complaint resolution process, not only for assistance, but also to document the situation.

DESCRIPTION OF COMPLAINT RESOLUTION PROCEDURES

Confidentiality - Utmost care is taken to ensure confidentiality and due process for both complainant and alleged harasser. Contacts with members of the complaint resolution process are completely confidential. Restrictions regarding confidentiality cannot be imposed upon complainant or alleged harasser.

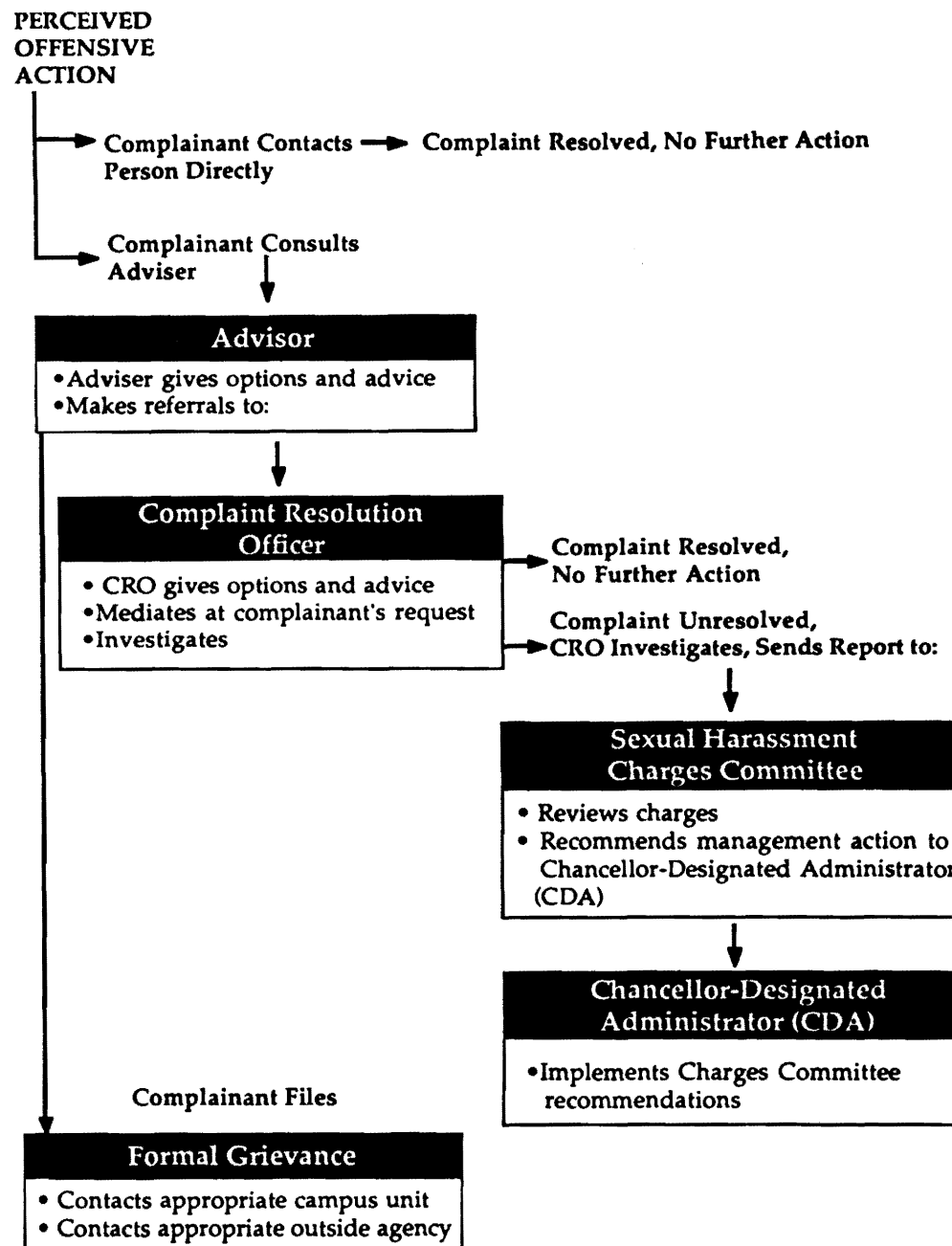
Advisers - Students, faculty, and staff who believe they have been sexually harassed or are uncertain about it may contact an adviser. Often, a person just wants to talk over the situation with someone impartial. The adviser can clarify the definitions of sexual harassment, discuss options for informal resolution, and help the complainant attempt to resolve the situation on her/his own. A complainant is not required to take any action that is not desired. A person can choose an adviser at any of the available locations (see Contacts on Campus), or may also go directly to a complaint resolution officer.

Complaint Resolution Officer (CRO) - The CRO is the only individual authorized to provide mediation for the complainant and alleged harasser, conduct an investigation, or prepare a fact-finding report. A complainant may seek a CRO's help in informing the alleged harasser that a problem has been raised (complainant may remain anonymous). At the complainant's request, a CRO may conduct a fact-finding investigation. At this point, the accused has the right to know the charge and the name of the complainant.

Charges Committee - If the nature of a complaint requires an investigation by the CRO, a written report is submitted to the Charges Committee, without the names of the people involved. The committee will conduct a confidential review of the charges as reported by the CRO, determine on the basis of that information whether it is credible that sexual harassment occurred, and recommend remedies and sanctions. The committee consists of two faculty, one staff, one non-senate academic, and one graduate student.

Responsibility for implementing the Charges Committee's recommendations is then given to a *Chancellor-designated Administrator (CDA)*, who will receive the names of the people involved at that time.

UCSC SEXUAL HARASSMENT COMPLAINT RESOLUTION PROCEDURES



DEFINITION OF SEXUAL HARASSMENT

The University of California employs a definition of sexual harassment corresponding to that set forth by the Equal Employment Opportunity Commission (EEOC - the agency charged with administration of Title VII of the 1964 Civil Rights Act), and recognized by federal courts:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of instruction, employment, or participation in other university activity;
2. Submission to or rejection of such conduct by an individual is used as a basis for evaluation in making academic or personnel decisions affecting an individual, or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile, or offensive university environment.

In determining whether the alleged conduct constitutes sexual harassment, consideration shall be given to the record as a whole and to the totality of circumstances, including the nature of the sexual advances and the context in which the alleged incidents occurred.

The difference between voluntary sexual relationships and sexual harassment is that harassment contains elements of coercion, threat, and/or unwanted attention. Some examples of behavior which *may* constitute sexual harassment are:

- Sexual innuendos or remarks about clothing, body, or sexual activities.
- Suggestive or insulting sounds.
- Humor and jokes about sex.
- Sexual propositions, invitations, or pressure for sex or dates.
- Implied or overt threats.
- Any sexual conduct which interferes with performance or creates an intimidating, hostile, or offensive work or learning environment.

DEFINITION OF TERMS USED IN THE ANNUAL REPORT

Complaint - Contact by a recipient or observer of sexual harassment or any other member of the campus community with a campus sexual harassment adviser, or complaint resolution officer, during which advice is sought on how to resolve a situation, to seek mediation, or to file a complaint which may result in investigation.

Inquiry - Contact by any member of the campus community with a sexual harassment officer for general information about sexual harassment including policy and procedures.

Referral - Contact by any member of the campus community which results in the determination that another office would be more appropriate to consult, such as Rape Prevention, Religious Council, Counseling Services, or the campus police.

Mediation - The process of assisting a complainant and alleged harasser to communicate about a problem, and to mutually agree on a resolution. This process is facilitated by a complaint resolution officer, upon the complainant's request.

Investigation - To gather and record information regarding the complaint from sources such as the complainant, alleged harasser, witness(es), co-worker(s); evaluate the information, and identify courses of action. If an informal complaint is filed at the complainant's request, a written report is forwarded to the Charges Committee (without names).

WHOM TO CONTACT FOR ASSISTANCE

INFORMATION ADVISERS

Julia Armstrong, Asst. Chancellor	X2058
Claire Braz-Valentine, Kresge College	X4129
Patti Cazel, College Eight	X4279
Jane de Vette, Graduate Studies & Research	X2510
Dave Kirk, McHenry Library	X2324
Marylee Lorenz, Merrill College	X2808
Constance McKenzie, Crown College	X2665
Mary McKinnon, Porter College	X2746
Corinne Miller, Re-Entry Program	X2552
Marie Morones, Oakes College	X2558
Scott Nichols, Cowell College	X4253

COMPLAINT RESOLUTION OFFICER

Happy Hunter, Services to Academic Staff	X2378/4451
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CHARGES COMMITTEE

Anne Callahan
Division of Humanities and Arts

Lucille Clifton, Professor of Literature
Literature Board of Studies

Wayne Mullin, Head of Access Services
McHenry Library

Mark Reinhardt, Graduate Student
History of Consciousness Board

David Thomas, Assoc. Professor of Politics
Stevenson College

EDUCATION COMMITTEE

David Cope, Chair Provost, Porter College	Judith Paquette, Bibliographer McHenry Library
Rena R. Grant, Co-chair Ombudsman	Melody Rose, Undergraduate Student - Merrill College
Dave Kirk, Learning Lab Supervisor - McHenry Library	Valerie Simmons, Asst. Prof. of Psychology - Oakes College
Beatriz Lopez-Flores, Director Women's Center	Bob Tacconi, Records Asst. Office of the Registrar
Sharyn Martin, Staff Analyst Staff Personnel	Gregory Wroblicky, Graduate Student - Marine Sciences

*Staff support for the Sexual Harassment Program
is provided by the Office of the Ombudsman.
For general information, please call
X2073.*

Sexual Harassment Policy



5. The proceedings before the Board shall be as follows unless waived or modified by the parties or when the respondent admits his/her guilt:
 - a. the Presiding Officer shall read the charge(s) and allow the respondent to either admit or challenge the allegations;
 - b. the complainant may present a brief opening statement, followed by the same from the respondent;
 - c. the complainant will present any and all evidence germane to the allegations, with the following provisions:
 - (i) the respondent may question evidence and testimony introduced;
 - (ii) the complainant may rebut any inferences made;
 - (iii) the respondent may rebut any inferences made
 - d. the respondent may present any and all evidence and testimony germane to the allegations, with the following provisions:
 - (i) the complainant may question evidence and testimony introduced;
 - (ii) the respondent may rebut any inferences made;
 - (iii) the complainant may rebut any inferences made;
 - e. the complainant may briefly summarize his/her case to the Board, followed by the respondent who may do the same

F. Decision of the Hearing Board

After the hearing, the Board shall convene for private deliberations to determine whether the University's policy on sexual harassment has been violated. If so, the Board will decide on findings of fact, proposed penalty and relief for the aggrieved party. The findings of fact, proposed penalty and relief shall be based solely on the testimony and evidence presented at the hearing. In making its determination, the Board will examine the totality of the circumstances, such as the nature of the sexual harassment and the context in which the alleged incident occurred. Where an individual is found to have violated the sexual harassment policy, the penalty should reflect the severity of the incident. The penalties shall include, but not be limited to, verbal admonition, written warning to be included in the individual's personnel file, probation, suspension with or without pay, involuntary demotion, removal from administrative duties within a department, obtaining appropriate professional counseling, and dismissal. The relief shall attempt to reinstate, restore and, as much as possible, make the aggrieved party whole. The Chairperson of the Panel shall review the Board's proposed penalty in conjunction with any records of past sexual harassment violations by the respondent by consulting the Ombudsperson's Office and shall adjust the severity of the Board's proposal to reflect any recurrence of the offense. It

Within ten days, or, if briefs are to be submitted, within twenty-one days from the hearing, the Board's written decision (including findings of fact, and recommendations for penalty and relief, if any) shall be forwarded to the complainant, the respondent, and the appropriate Vice Chancellor with Notice of Procedures for requesting review by the respondent's Vice Chancellor. The Board's decision shall be implemented within ten days unless review is requested within that period.

IV. Standard of Proof

A violation of this policy on sexual harassment shall be found only where there is a *preponderance of evidence* that a violation occurred. The Hearing Board, Vice Chancellors, and the Chancellor shall be bound to make their determinations based on this standard of proof.

V. Vice Chancellor's Review

Either party may request review within ten days of the date of the Board's decision by filing a written petition with the respondent's Vice Chancellor. The petition shall set forth in detail the specific grounds upon which review is sought. The Vice Chancellor shall immediately forward a copy of the petition to the Hearing Board and the other party. The Vice Chancellor may grant review and affirm the decision of the Board, or request specific findings from the Board or remand the matter for further hearing or set aside or modify the decision, if s/he determines that the substantial rights of any party may have been prejudiced because the Board's decision is:

1. unsupported by substantial evidence; or
2. in violation of constitutional provisions, academic freedom, or these procedures; or
3. unwarranted by additional evidence and there was good reason for the failure to present it in the hearing; or
4. arbitrary, an abuse of discretion or in excess of its powers; or
5. the contention that the Chairperson of the Panel was arbitrary or unreasonable in adjusting the severity of the Board's proposed penalty because of respondent recidivism.

The Vice Chancellor shall make his/her determination upon consideration of the entire record, indicating specific reasons for any change of the Board's decision. Within fifteen days of the request for review, his/her final written decision shall be sent to the complainant, the respondent and to the Hearing Board. Within the period, remand or a request for specific findings shall have been made to the Board, where appropriate. Upon notice from the Vice Chancellor, the Board shall immediately reconvene to consider and respond to new evidence or a request for specific findings. The final decision of the Vice Chancellor shall be implemented without delay.

VI. Retaliation

No reprisal or retaliation of any kind shall be taken against any person for participating in these procedures. Where there is an allegation that retaliatory action is or has been taken against a complainant resulting from participation in these proceedings immediate review of such allegation shall be granted by the respondent's Vice Chancellor. The petition shall set forth in detail the facts which are the grounds for the allegation and the relief sought. Where the complainant established a *prima facie* case of retaliatory action, the Vice Chancellor shall take immediate action to redress any and all negative consequences resulting from such retaliatory action.

VII. Reconsideration by the Chancellor

Either party may request reconsideration within ten days of the date of the Vice Chancellor's decision by filing a written petition with the Chancellor. The provisions and procedures of the Vice Chancellor's review (Section IV above) shall apply to the Chancellor's reconsideration. The decision of the Chancellor shall constitute final University disposition of the matter and the parties shall, upon the rendering of the Chancellor's final decision, have exhausted their administrative remedies within the University. Beyond that they may seek remedies in the courts or through other relevant administrative procedures.

Records of the hearing process and any review or reconsideration shall be kept by the Ombudsperson's Office for eight years. During that period, the records shall only be available to the Chairperson of the Sexual Harassment Hearing Panel, the respondent's Vice Chancellor or the Chancellor for a determination of an appropriate penalty where subsequent formal sexual harassment complaints or claims of retaliation are pursued against the same person. Of course, the records are always available pursuant to a judicial subpoena.

VIII. Review

It is understood that these procedures will be reviewed after a one-year implementation period and modified as necessary upon consultation with interested groups on campus.

Sexual harassment is sex discrimination and, therefore, a violation of federal and state law. It is the policy of the University of Massachusetts that no member of the University community may sexually harass another. For purposes of this policy and consistent with federal regulations, sexual harassment is defined as follows:

Unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct of sexual nature constitute sexual harassment when 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic work, 2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual, or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working or academic environment.

It is the policy of the University of Massachusetts to protect the rights of all persons within the University community providing fair and impartial investigations of all complaints brought to the attention of appropriate officials. Any member of the University community found to have violated sexual harassment policy will be subject to disciplinary action.

PROCEDURE

The University of Massachusetts at Amherst will administer policy and procedures under the Office of Affirmative Action.

Scope

These procedures are to be available to any person who, at the time of the acts complained of, was employed at or was enrolled as a student at the University of Massachusetts at Amherst. No individual shall be penalized by the University for participating in the procedures stipulated here, nor shall retaliation be permitted. Complaints of retaliation should be addressed to the Ombudsperson or, where formal proceedings have been initiated, to the respondent's Vice Chancellor, who shall immediately attempt to address and resolve issues.

Informal Resolution

Individuals with sexual harassment complaints are encouraged to exercise their option to discuss them informally at the first instance with their department head to see if they can be resolved at that level. If this approach is either unacceptable or unavailing, by agreement of the parties, the Ombudsperson shall attempt an informal resolution of any sexual harassment complaint, provided it is brought within six months of the alleged act. In his/her neutral capacity, the Ombudsperson shall assist the parties with any preliminary matters, including, but not limited to, an investigation and the identification of witnesses. She shall also inform the parties of possible courses of action, such as mediation, formal hearing, and other campus support and counseling services. If mutually agreed otherwise, the Ombudsperson shall

complete his/her investigation and all efforts to arrive at a settlement within no more than twenty-one days* of receipt of the complaint.

Because of the emotional and moral complexities surrounding most sexual harassment incidents, every effort should be made to resolve the complaint on an informal basis, if possible. Where an incident has occurred, the emphasis should be on action to provide appropriate relief for the aggrieved party while sensitizing the person at fault to the effects of such behavior, in a constructive manner. The Ombudsperson shall ensure that all communications shall be kept confidential. She may not be called to testify at any University hearing regarding these privileged communications unless otherwise agreed by both parties.

If the complaint is dropped by the complainant prior to resolution, no written records shall be kept. Where a resolution is reached, a dated copy of the terms of the agreement or resolution, indicating the nature of the complaint and the names of the parties, shall be kept by the Ombudsperson's Office. It shall be kept for three years or until the complainant has left the purview of supervision or authority of the party at fault and his/her department, whichever comes later, before it is destroyed. During that period, the record(s) shall only be available to the Chairperson of the Sexual Harassment Hearing Panel, the respondent's Vice Chancellor, or the Chancellor for the determination of an appropriate penalty where subsequent formal sexual harassment complaint or claims of retaliation are pursued against the same person.

III. Hearing Process

A. Filing a Complaint

If the parties do not agree to use the informal proceedings, or if it does not result in a settlement, or if the resolution agreed upon is not carried out, the Ombudsperson shall advise the aggrieved party of his/her right to a formal hearing. The Ombudsperson shall review the formal procedures for both parties. If the complainant decides to proceed with a formal hearing, a written complaint shall be filed with the respondent's Vice Chancellor. The complaint shall state, clearly and concisely, the facts which are the grounds for the proceeding and the relief sought. Within one working day the complaint shall be forwarded by the Vice Chancellor to the Chairperson of the Sexual Harassment Hearing Panel and to the respondent with notice that an answer shall be filed with the Vice Chancellor within seven days. The answer shall contain full, direct and specific responses to each claim in the complaint admitting, denying or explaining the material facts. The Vice Chancellor shall forward the answer to the Chairperson of the Hearing Panel and the complainant within one working day. It shall be the Chairperson's responsibility to contact the appropriate Board members, schedule a hearing date, and notify the respective parties at least fourteen days before the hearing. The hearing will be scheduled and held no later than twenty-one days after the complaint has been filed, unless continued by the Board pursuant to Section D, ii, Numbers 6 or 7 below.

*"Days" mean working days throughout this document.

B. Composition of the Hearing Panel

The Chancellor shall appoint a thirteen-member Sexual Harassment Hearing Panel. The Hearing Panel shall be composed of two faculty members, two members of the professional staff, four classified employees, two undergraduate students, two graduate students, and one administrative representative. With the exception of the administrative representative, the Chancellor will be guided by recommendations from the appropriate governing bodies of the respective groups. The Chancellor's appointments will also be guided by considerations of continuity, experience, affirmative action, and sensitivity to the concerns of those most profoundly affected by sexual harassment, including women students and members of minority groups. The administrative representative shall be drawn from the Chancellor's staff and shall act as the Chairperson of the Panel. The members are to serve for staggered terms of up to three years. The members of the Panel shall act at all times to preserve the confidentiality of the complainants and respondents. Once each year, new panel members shall participate in a sexual harassment training workshop designed to sensitize them to the issues encompassing sexual harassment and the hearing procedures herein, including confidentiality. The training will include a simulated sexual harassment hearing and provide the panel with an opportunity to role-play, as well as other techniques.

C. The Hearing Board

Upon notice of a formal complaint, the Chairperson of the Hearing Panel shall designate a Presiding Officer and two other members of the Panel to serve as a Hearing Board, on a fair basis. At least one member of each Board shall be drawn from the complainant's and respondent's respective constituencies.

The function of a Hearing Board is to hear and consider testimony and other relevant, reliable evidence, to make findings of fact, to determine whether the University policy on sexual harassment has been violated, and, if so, to recommend appropriate penalties and relief.

D. Duties and Powers of the Presiding Officer and the Board

i. The Presiding Officer shall have the following specific duties:

1. administer the oath or affirmation to anyone who will testify at the hearing;
2. ensure an orderly presentation of the evidence and issues;
3. ensure a record is made of the proceedings; and
4. see that a fair, independent, impartial decision based on the issues and evidence presented at the hearing is issued by the Board no later than ten days, (or twenty-one days where briefs are submitted) after the conclusion of the hearing.

ii. The Board shall have the following specific duties:

1. conduct a fair hearing to ensure that all the rights of the parties are protected;
2. define issues;
3. receive and consider all relevant and reliable evidence of the kind which reasonable people are accustomed to rely upon in the conduct of serious business;
4. assist all those present in making a full and free statement of the facts in order to bring out all the information necessary to decide the issues involved;
5. ensure that all parties have full opportunity to present their claims orally, or in writing, and to secure witnesses and evidence to establish their claims;
6. continue the hearing to a subsequent date to permit either party to produce additional evidence, witnesses, and other materials;
7. change the date, time or place of the hearing on its own motion or upon request of any party for good cause shown and upon due notice to the parties;
8. in its discretion, permit the parties or their representatives to submit briefs within fourteen days from the conclusion of the hearing; and
9. by majority vote rule on all questions of fact, interpretations of rules, regulations and policies, penalties and relief and any requests that are made during the hearing.

E. Hearing Procedure

1. Unless otherwise agreed by a majority of the Board pursuant to Section D, ii, Numbers 6, 7 or 9 above, a closed hearing shall be held within twenty-one days from the receipt of the formal complaint by the Chairperson.
2. The parties shall be afforded the opportunity to hear all the testimony, to examine all the evidence, to respond to any adverse testimony, and to present evidence and witnesses and advance any pertinent arguments on their own behalfs.
3. Each party shall have the right to be accompanied, advised and/or represented by two representatives at any stage of the proceedings. However, neither party shall be represented by an attorney at this hearing but either may be accompanied, if they so wish, by an adviser who may be an attorney.
4. The hearing shall be tape recorded by the Hearing Board with the tape remaining the property of the University. Subsequently, either party shall have supervised access to the tape or a copy thereof through the Affirmative Action Office. Parties may also do their own taping.

UNIVERSITY OF WISCONSIN-MADISON

STATEMENT ON SEXUAL HARASSMENT CONTACT PERSONS

1. What are the responsibilities of a Sexual Harassment Contact Person when someone contacts him/her about a sexual harassment problem?
 - a. Provides information about the University's sexual harassment complaint procedures as well as other procedures which are available for sexual harassment complaints and lets the person know what to expect from the procedures.
 - b. Provides a skilled and sympathetic ear to a person with a sexual harassment problem.
 - c. Attempts to separate facts and observations from assumptions and conclusions and focuses on relevant information.
 - d. Assesses the situation to determine the next step and, in consultation with the Affirmative Action Office, determines whether he/she has the skill and authority to review the situation or refers the matter to the Affirmative Action Office.
 - e. Provides accurate information on confidentiality of complaints and an explanation of situations in which it might be impossible to maintain confidentiality, e.g. if disciplinary action would be taken against the person accused of harassment.
 - f. Clearly informs the individual of what he/she needs to do to initiate University action if that is desired.
 - g. Carefully completes the Sexual Harassment Information Report and forwards it to the Affirmative Action Office so that the University can increase its knowledge about the extent and variety of sexual harassment on campus and what can be done to combat it effectively.
2. What factors should be considered in selecting a Sexual Harassment Contact Person?
 - a. Sensitivity to the problems caused by sexual harassment and a commitment to eliminating sexual harassment, on the basis of sex or sexual preference, at the University.
 - b. Sensitivity to feelings, rights and interests of all parties, including an awareness of any discomfort that any of the parties may have about the subject of sexual harassment.
 - c. Understanding of the various forms of sexual harassment (i.e. hostile environment, quid pro quo), on the basis of sex or sexual preference.
 - d. Good listening skills and demonstrated ability to deal with confidential and sensitive matters in a discrete manner.

- e. Respected and visible member of the unit who has experience and responsibility giving the individual a good understanding of University procedures and policies.
 - f. Demonstrated problem solving skills with the ability to act promptly as the situation requires.
 - g. Demonstrated judgment in knowing when he/she is unable to handle a situation and to whom it should be referred.
 - h. Willingness to participate in the necessary training and to learn the rights and interests of the complainant, the accused harasser and the University.
3. Why does the University have a separate procedure for handling sexual harassment matters?
- a. Issues involving sexuality call for heightened awareness and great sensitivity is required for dealing with the wide range of issues raised, from hostile environment claims to homophobia to demands for sexual favors.
 - b. Many victims hesitate to complain because they do not want to get the harasser in trouble; they only want the harassing behavior to stop. Furthermore many victims believe that no one will take their complaint seriously.
 - c. There is a tendency for victims of sexual harassment (like victims of rape) to blame themselves and think it was because of some "fault" of the victim.
 - d. There may be less education or understanding about what constitutes sexual harassment.
 - e. Some complaints relate to actions which have occurred over a long period of time before the student or employee feels that he/she can come forward to complain.
 - f. In some workplaces and academic settings, there may be a history and acceptance of sexual harassment; victims leave or transfer rather than complain.

Therefore, the University has established special procedures for sexual harassment complaints. These procedures are intended to encourage students and employees to come forward with complaints of sexual harassment in the academic setting or workplace. Each college and employing unit, as well as many departments, has at least one designated Sexual Harassment contact person. In addition, the Dean of Students Office and the Affirmative Action Office provide intake services.

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UNIVERSITY OF WISCONSIN-MADISON

CONFIDENTIALITY AND NON-RETALIATION POLICY PROTECTING STUDENTS AND EMPLOYEES BRINGING SEXUAL HARASSMENT COMPLAINTS

The University seeks to eliminate sexual harassment on campus by encouraging students, faculty and all employees promptly to report problems or complaints about sexual harassment. No individual should be deterred from reporting allegations of sexual harassment because of fear of retaliation or disclosure of his/her name.

CONFIDENTIALITY PROTECTION AND ITS LIMITATIONS

Informal complaint procedure. Every possible effort shall be made to insure the confidentiality of information received as part of the University's informal complaint procedure. The names of the parties involved will not be a part of the Information Report about the situation. The Sexual Harassment Contact Person, the Affirmative Action Office and the Dean of Students Office will disclose the name of the individual in their review/mediation of the complaint only if the complainant has given permission to disclose his/her name. If, due to the circumstances of the alleged harassment, it is not possible to conduct a review or resolve the complaint and yet maintain confidentiality, the Sexual Harassment Contact Person will discuss this with the complainant.

Although a complainant requests confidentiality, it may be possible to attempt some mediation or resolution of the complaint, to address the situation in some other manner, or to take corrective action as appropriate for the situation. The Sexual Harassment Contact Person, therefore, should explore these alternatives rather than failing to take action because of the request for confidentiality. Action requiring disclosure of the complainant's identity or identifying the complainant in some manner would not take place without consent of the complainant.

RETALIATION PROHIBITED

Retaliation against a student or employee for bringing a sexual harassment complaint is prohibited. Retaliation is itself a violation of University policy and the law, and is a serious separate offense. Complaints of retaliation for bringing a sexual harassment complaint may be brought through the informal or the formal sexual harassment complaint process.

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Association of American Law Schools

ASSOCIATION HANDBOOK

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**STATEMENT OF GOOD PRACTICES BY LAW PROFESSORS IN THE
DISCHARGE OF THEIR ETHICAL AND PROFESSIONAL RESPONSIBILITIES**

American law professors typically are members of two professions and thus should comply with the requirements and standards of each. Law professors who are lawyers are subject to the law of professional ethics in force in the relevant jurisdictions. Non-lawyers, in turn, should be guided by the norms associated with their disciplines. In addition, as members of the teaching profession, all law faculty members are subject to the regulations of the institutions at which they teach and to guidelines that are more generally applicable, such as the Statement of Professional Ethics of the American Association of University Professors.

This statement does not diminish the commands of other sources of ethical and professional conduct. Instead, it is intended to provide general guidance to law professors concerning ethical and professional standards both because of the intrinsic importance of those standards and because law professors serve as important role models for law students. In the words of the American Bar Association's Commission on Professionalism, since "the law school experience provides the student's first exposure to the profession and . . . professors inevitably serve as important role models for students, . . . the highest standards of ethics and professionalism should be adhered to within law schools."

Law professors' responsibilities extend beyond the classroom to include out of class associations with students and other professional activities. Members of the law teaching profession should have a strong sense of the special obligations that attach to their calling. They should recognize their responsibility to serve others and not be limited to pursuit of self interest. This general aspiration cannot be achieved by edict, for moral integrity and dedication to the welfare of others cannot be legislated. Nevertheless, a public statement of good practices concerning ethical and professional responsibility can enlighten newcomers and remind experienced teachers about the basic ethical and professional tenets – the ethos – of their profession.

Although the norms of conduct set forth in this Statement may be relevant when questions concerning propriety of conduct arise in a particular institutional context, the statement is not promulgated as a disciplinary code. Rather, the primary purpose of the Statement – couched for the most part in general aspirational terms – is to provide guidance to law professors concerning their responsibilities (1) to students, (2) as scholars, (3) to colleagues, (4) to the law school and university at which they teach, and (5) to the bar and the general public.

I. RESPONSIBILITIES TO STUDENTS

As teachers, scholars, counselors, mentors, and friends, law professors can profoundly influence students' attitudes concerning professional competence and responsibility. Professors should assist students to recognize the responsibility of lawyers to advance individual and social justice.

Because of their inevitable function as role models, professors should be guided by the most sensitive ethical and professional standards.

Law professors should aspire to excellence in teaching and to mastery of the doctrines and theories of their subjects. They should prepare conscientiously for class and employ teaching methods appropriate for the subject matters and objectives of their courses. The objectives and requirements of their courses, including applicable attendance and grading rules, should be clearly stated. Classes should be met as scheduled or, when this is impracticable, classes should be rescheduled at a time reasonably convenient for students, or alternative means of instruction should be provided.

** . . . In the spirit of Public Service:" A Blueprint for the Rekindling of Lawyer Professionalism 19 (1986).

Law professors have an obligation to treat students with civility and respect and to foster a stimulating and productive learning environment in which the pros and cons of debatable issues are fairly acknowledged. Teachers should nurture and protect intellectual freedom for their students and colleagues. If a professor expresses views in class that were expressed in representing a client or in consulting, the professor should make appropriate disclosure.

Evaluation of student work is one of the fundamental obligations of law professors. Examinations and assignments should be conscientiously designed and all student work should be evaluated with impartiality. Grading should be done in a timely fashion and should be consistent with standards recognized as legitimate within the university and the profession. A student who so requests should be given an explanation of the grade assigned.

Law professors should be reasonably available to counsel students about academic matters, career choices, and professional interests. In performing this function, professors should make every reasonable effort to ensure that the information they transmit is timely and accurate. When in the course of counseling a law professor receives information that the student may reasonably expect to be confidential, the professor should not disclose that information unless required to do so by university rule or applicable law. Professors should inform students concerning the possibility of such disclosure.

Professors should be as fair and complete as possible when communicating evaluative recommendations for students and should not permit invidious or irrelevant considerations to infect these recommendations. If information disclosed in confidence by the student to the professor makes it impossible for the professor to write a fair and complete recommendation without revealing the information, the professor should so inform the student and refuse to provide the recommendation unless the student consents to full disclosure.

Discriminatory conduct based on such factors as race, color, religion, national origin, sex, sexual orientation, disability or handicap, age, or political beliefs is unacceptable in the law school community. Law professors should seek to make the law school a hospitable community for all students and should be sensitive to the harmful consequences of professorial or student conduct or comments in classroom discussions or elsewhere that perpetuate stereotypes or prejudices involving such factors. Law professors should not sexually harass students and should not use their role or position to induce a student to enter into a sexual relationship, or to subject a student to a hostile academic environment based on any form of sexual harassment.

Sexual relationships between a professor and a student who are not married to each other or who do not have a preexisting analogous relationship are inappropriate whenever the professor has a professional responsibility for the student in such matters as teaching a course or in otherwise evaluating, supervising, or advising a student as part of a school program. Even when a professor has no professional responsibility for a student, the professor should be sensitive to the perceptions of other students that a student who has a sexual relationship with a professor may receive preferential treatment from the professor or the professor's colleagues. A professor who is closely related to a student by blood or marriage, or who has a preexisting analogous relationship with a student, normally should eschew roles involving a professional responsibility for the student.

II. RESPONSIBILITIES AS SCHOLARS

A basic responsibility of the community of higher education in the United States is to refine, extend, and transmit knowledge. As members of that community, law professors share with their colleagues in the other disciplines the obligation to discharge that responsibility. Law schools are required by accreditation standards to limit the burden of teaching so that professors will have the time to do research and to share its results with others. Law schools also have a responsibility to maintain an atmosphere of freedom and tolerance in which knowledge can be sought and shared without hindrance. Law professors are obligated, in turn, to make the best and fullest use of that freedom to fulfill their scholarly responsibilities.

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In teaching, as well as in research, writing, and publication, the scholarship of others is indispensable to one's own. A law professor thus has a responsibility to be informed concerning the relevant scholarship of others in the fields in which the professor writes and teaches. To keep current in any field of law requires continuing study. To this extent the professor, as a scholar, must remain a student. As a corollary, law professors have a responsibility to engage in their own research and publish their conclusions. In this way, law professors participate in an intellectual exchange that tests and improves their knowledge of the field, to the ultimate benefit of their students, the profession, and society.

The scholar's commitment to truth requires intellectual honesty and open-mindedness. Although a law professor should feel free to criticize another's work, distortion or misrepresentation is always unacceptable. Relevant evidence and arguments should be addressed. Conclusions should be frankly stated, even if unpopular.

When another's scholarship is used – whether that of another professor or that of a student – it should be fairly summarized and candidly acknowledged. Significant contributions require acknowledgement in every context in which ideas are exchanged. Publication permits at least three ways of doing this: shared authorship, attribution by footnote or endnote, and discussion of another's contribution within the main text. Which of these will suffice to acknowledge scholarly contributions by others will, of course, depend on the extent of the contribution.

A law professor has a responsibility to preserve the integrity and independence of legal scholarship. Sponsored or remunerated research should always be acknowledged with full disclosure of the interests of the parties. If views expressed in an article were also espoused in the course of representation of a client or in consulting, this should be acknowledged.

III. RESPONSIBILITIES TO COLLEAGUES

Law professors should treat colleagues and staff members with civility and respect. Senior law professors should be particularly sensitive to the terms of any debate involving their junior colleagues and should so conduct themselves that junior colleagues will understand that no adverse professional consequences would follow from expression of, or action based upon, beliefs or opinions contrary to those held by the senior professor.

Matters of law school governance deserve the exercise of independent judgment by each voting member of the faculty. It is therefore inappropriate for a law professor to apply any sort of pressure other than persuasion on the merits in an effort to influence the vote of another member of the faculty.

Law professors should comply with institutional rules or policies requiring confidentiality concerning oral or written communications. Such rules or policies frequently will exist with respect to personnel matters and evaluations of student performance. If there is doubt whether such a rule or policy is in effect, a law professor should seek clarification.

An evaluation made of any colleague for purposes of promotion or tenure should be based exclusively upon appropriate academic and service criteria fairly weighted in accordance with standards understood by the faculty and communicated to the subject of the evaluation.

Law professors should make themselves reasonably available to colleagues for purposes of discussing teaching methods, content of courses, possible topics of scholarship, scholarly work in progress, and related matters. Except in rare cases and for compelling reasons, professors should always honor requests from their own law schools for evaluation of scholarship in connection with promotion or tenure decisions. Law professors should also give sympathetic consideration to similar requests from other law schools.

As is the case with respect to students (Part I), sexual harassment, or discriminatory conduct involving colleagues or staff members on the basis of race, color, religion, national origin, sex, sexual orientation, disability or handicap, age, or political beliefs is unacceptable.

IV. RESPONSIBILITIES TO THE LAW SCHOOL AND UNIVERSITY

Law professors have a responsibility to participate in the governance of their university and particularly the law school itself. Although many duties within modern universities are assumed by professional administrators, the faculty retains substantial collective responsibility to provide institutional leadership. Individual professors have a responsibility to assume a fair share of that leadership, including the duty to serve on faculty committees and to participate in faculty deliberations.

Law professors are frequently in demand to participate in activities outside the law school. Such involvement may help bring fresh insights to the professor's classes and writing. Excessive involvement in outside activities, however, tends to reduce the time that the professor has to meet obligations to students, colleagues, and the law school. A professor thus has a responsibility both to adhere to a university's specific limitations on outside activity and to assure that outside activities do not significantly diminish the professor's availability to meet institutional obligations. Professors should comply with applicable laws and university regulations and policies concerning the use of university funds, personnel, and property in connection with such activities.

When a law professor resigns from the university to assume another position, or seeks a leave of absence to teach at another institution, or assumes a temporary position in practice or government, the professor should provide reasonable advance notice. Absent unusual circumstances, a professor should adhere to the dates established in the Statement of Good Practices for the Recruitment of and Resignation by Full-Time Faculty Members of the Association of American Law Schools.

Although all law professors have the right as citizens to take positions on public questions, each professor has a duty not to imply that he or she speaks on behalf of the law school or university. Thus, a professor should take steps to assure that any designation of the professor's institution in connection with the professor's name is for identification only.

V. RESPONSIBILITIES TO THE BAR AND GENERAL PUBLIC

A law professor occupies a unique role as a bridge between the bar and students preparing to become members of the bar. It is important that professors accept the responsibilities of professional status. At a minimum, a law professor should adhere to the Code or Rules of Professional Conduct of the state bars to which the law professor may belong. A law professor may responsibly test the limits of professional rules in an effort to determine their constitutionality or proper application. Other conduct warranting discipline as a lawyer should be a matter of serious concern to the professor's law school and university.

One of the traditional obligations of members of the bar is to engage in uncompensated public service or pro bono legal activities. As role models for students and as members of the legal profession, law professors share this responsibility. This responsibility can be met in a variety of ways, including direct client contact through legal aid or public defender offices (whether or not through the law school), participating in the legal work of public interest organizations, lecturing in continuing legal education programs, educating public school pupils or other groups concerning the legal system, advising local, state and national government officials on legal issues, engaging in legislative drafting, or other law reform activities.

The fact that a law professor's income does not depend on serving the interests of private clients permits a law professor to take positions on issues as to which practicing lawyers may be more inhibited. With that freedom from economic pressure goes an enhanced obligation to pursue individual and social justice.

Adopted by the Executive Committee,
November 17, 1989

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This statement is a Committee of the American Bar Association.