



CALIFORNIA STATE UNIVERSITY, SACRAMENTO
UNIVERSITY POLICY MANUAL

Sexual Harassment, Policy Against

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CALIFORNIA STATE UNIVERSITY, SACRAMENTO POLICY ON SEXUAL HARASSMENT

It is the policy of California State University, Sacramento to maintain a working and learning environment free from sexual harassment of students, staff and faculty and those who seek such status. All students, staff and faculty should be aware that this University is concerned and will take action to eliminate sexual harassment. Sexual harassment is not only unprofessional conduct and a violation of the law, it is also conduct subject to disciplinary action at the campus level.

This policy recognizes the University's commitment to the understanding that the maintenance of ethical standards and the concerns for academic freedom prohibit the exploitation of faculty, staff, and students. The University is required by law and by system policy to take all steps necessary to prevent sexual harassment. These steps include informing individuals of their rights and responsibilities, developing educational programs to sensitize the campus community to the issue, and developing sanctions against harassment. The University is also legally liable for sexual harassment perpetrated by its employees. Additionally, employees may also be held personally liable for acts of discrimination or sexual harassment.

Since sexual harassment is a complex, emotionally charged topic which raises questions about the nature of relationships among and between women and men in academic and work environments, the University will continue its policy of ensuring that an educational awareness program exists for all supervisors-managers and all faculty, full-time and part-time, temporary and permanent. With education and strict enforcement, the University expects that incidents of sexual harassment will be reduced and that there will be a change in the attitudes and expectations that perpetuate it. The Director of Equal Opportunity & Affirmative Action has been designated the Title IX Coordinator who is responsible for explaining the procedures for filing complaints of discrimination based on sex and sexual harassment filed by students and employees and is responsible for leading this University effort. The Vice President for Human Resources is the President's designee for purposes of this policy.

Definition (of Sexual Harassment)

An individual's behavior constitutes sexual harassment when it is sexual in nature and unwanted by the person toward whom it is directed. A finding of sexual harassment will be made when one or more of the following circumstances are present:

1. Submission to or toleration of the conduct is an explicit or implicit term or condition of appointment, employment, admission, or academic evaluation;
2. Submission to or rejection of such conduct is used as a basis for a personnel decision or an academic evaluation affecting an individual;
3. The conduct has the purpose or effect of interfering with the work performance of faculty or staff or creating an intimidating, hostile, offensive, or otherwise adverse working environment; or

4. 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.

Examples of sexual harassment might include: inappropriate personal attention by an instructor or person with power or authority over another, inappropriate touching, personal questions or comments of a sexual nature, pressure for dates or sexual activity, attempted sexual relations, sexual relations, sexual cartoons or posters, and sexual jokes or comments.

CONSENSUAL RELATIONSHIPS IN THE INSTRUCTIONAL AND SUPERVISORIAL CONTEXT

No person who has instructional responsibilities (faculty, instructor, graduate assistant, adjunct, undergraduate assistant, tutor) shall have an amorous relationship (consensual or otherwise) with a student who is enrolled in a course taught by the person with instructional responsibilities whose academic work (including work as a teaching assistant, internship supervision, etc.) is being supervised by the person with instructional responsibilities.

No person (faculty, student, staff and/or administrator) who has supervisory responsibilities shall have an amorous relationship (consensual or otherwise) with anyone with whom they have supervisory responsibility. Persons in close personal relationships (including spousal) need to be aware of perceived or real conflicts of interest.

CONSENSUAL RELATIONSHIPS OUTSIDE THE INSTRUCTIONAL AND SUPERVISORIAL CONTEXT-(A CAUTIONARY NOTE)

Amorous relationships between and among members of the campus community occurring outside the instructional or supervisory context may lead to difficulties.

These relationships which the parties view as consensual may appear to others to be exploitative. Further, in such situations (and others that cannot be anticipated), the parties may face serious conflicts of interest and should be careful to distance themselves from any decisions that may reward or penalize the other party involved. A member of the campus community who fails to withdraw from participation in activities or decisions that may reward or penalize the party with whom he or she has or has had an amorous relationship will be deemed to have violated his or her ethical obligation to the University community.

COMPLAINT PROCEDURE

Prevention is the best tool for the elimination of sexual harassment. The University will take all steps necessary to prevent sexual harassment from occurring, by affirmatively raising the subject, expressing strong disapproval, applying appropriate sanctions, informing employees and students of their rights and how to raise the issue of harassment under Titles VII and IX, raising the consciousness of would-be victims, and developing methods to sensitize all concerned. It is the legal responsibility of department heads, deans, supervisors, and managers to take all necessary and appropriate steps to prevent and correct sexual harassment problems. The first corrective step may be informal. [Note: that using an informal process to resolve a complaint is not a prerequisite for filing a formal complaint. Any person may directly file a formal complaint at any time within the prescribed timelines.] If informal steps are unsuccessful, the matter will be pursued via the formal corrective action or complaint process.

A determination of sexual harassment must consider two (2) factors:

1. The conduct itself; and
2. The context in which it occurred.

Informal Process

As stated above, whenever possible, complaints should be resolved informally. Students may receive informal advice and assistance by contacting advisors in the offices of the campus Affirmative Action Office, the counseling staff in the Student Health Center, any of the School Deans, the Women's Resource Center, or the Office of the Vice President for Student Affairs. Faculty and staff may receive advice and assistance by contacting the offices of their immediate supervisors, the office of Human Resources, the campus Equal Opportunity/Affirmative Action Office or the Employee Assistance Program.

Third party complaints (complaints filed by one person on behalf of another) may be filed by

contacting or submitting a written complaint to the Equal Opportunity/ Affirmative Action Office, Sacramento Hall, Room 259. The complaint should include the same information requested in 3a. "The Filing of a Written Complaint". The third party complainant will be informed within five (5) working days of filing a complaint which of the existing procedures will be used to investigate and resolve his/her complaint. [Note: The complainant does not have to exhaust campus administrative remedies, i.e., informal processes, before he/she file with the Office of Civil Rights (OCR).]

Formal Process-Internal

If informal discussion does not resolve the problem, and if the complainant wants to file a formal complaint, then a formal written complaint procedure may be initiated. The Equal Opportunity/Affirmative Action Officer is responsible for maintaining the files on all reported cases and will act as a consultant on all investigations, thus providing support for this policy.

1. Employees covered by discrimination complaint procedures in their Memorandum of Understanding (i.e., Units 2, 3, 5, 7, 9) will follow their contract procedures;
2. All other CSUS employees (permanent, probationary, and temporary) will follow the procedures as outlined in Executive Order 419;
3. Students and non-CSUS employees will use the following procedures when they are charging a faculty or staff member with sexual harassment. Other issues of sexual harassment between students will be handled through the Office of the Vice President for Student Affairs.

[Note: The complainant does not have to exhaust campus administrative remedies before he/she files with an outside agency (e.g., Department of Fair Employment & Housing (DFEH), Equal Employment Opportunity Commission (EEOC), Office of Civil Rights (OCR), Office of Federal Contract Compliance Programs (OFCCP).]

a. The Filing of a Written Complaint

The written signed complaint must include the following:

- 1) The specific act(s) or circumstances that are the basis of the complaint, including the time and place of the alleged action, and 2) The remedy or action requested.

b. Time Limits for the Complaint

A formal complaint will be considered if it is filed with the Equal Opportunity/Affirmative Action Office within ninety (90) calendar days of the alleged act. If the act(s) are continuous, then the time for filing may be within 90 calendar days of the most recent occurrence of the act.

If circumstances arise which might deter the victim from timely filing, the time may be extended by the President or his/her designee or the Equal Opportunity/Affirmative Action Officer. Any time limit that expires on a day observed as a day off by the University shall be extended to the next regular work day. Once the formal complaint has been filed, the President's designee or the Equal Opportunity/Affirmative Action Officer may extend any other time limits; however, a written reason for the extension, mailed to the complainant, must be given. The President's designee for this policy will be the Vice President for Human Resources.

c. Acceptance of Complaint

The complaint shall be reviewed by the Equal Opportunity/Affirmative Action Officer to determine whether the alleged act(s) are within the scope of this procedure. If the complaint meets the above criteria and is acceptable, it shall receive an administrative review. A notice of the complaint shall be forwarded to the accused and to his/her supervisor(s) (department chair, dean, or administrator of the accused).

d. Administrative Review

The Equal Opportunity/Affirmative Action Officer shall review the complaint and institute an investigation to be conducted by appropriate impartial (one who has no conflict of interest) investigator(s). This investigation should take no more than thirty (30) calendar days to complete. There may be circumstances, however, (e.g., breaks), which would necessitate extension of this timeline by the President's designee. Such extensions will be made only for good cause, and the

parties will be notified promptly. After such an investigation, the designated investigator(s) shall issue a report of his/her findings to the Equal Opportunity/Affirmative Action Officer within ten (10) calendar days after completion of the investigation. After receipt of these findings, the Equal Opportunity/Affirmative Action Officer shall make a recommendation to the appropriate Administrative Council level administrator (Dean, Associate Vice President, or Vice President) as to any action to be taken.

Both parties will also be notified of these findings at the conclusion of any inquiries and/or investigation into a complaint of discrimination based on sex or sexual harassment. Notification will, at a minimum, inform the complainant that the inquiry and/or investigation has been concluded, whether discrimination based on sex or sexual harassment has been found, and whether appropriate action will be taken. Further, this notice will inform the complainant of her/his right to appeal and where to obtain this information.

If disciplinary action is recommended against a faculty or staff member by the Equal Opportunity/Affirmative Action Officer, procedures outlined in the appropriate MOU or other CSU policy shall be followed.

If disciplinary action is recommended against a student, procedures as outlined in the Students Rights Handbook shall be followed.

e. Representation

The complainant, the respondent, and/or the University may be self-represented or represented by another person at any stage of the formal process.

f. Written Response to the Complaint

Following the Equal Opportunity/Affirmative Action Officer's recommendation to the President or his/her designee, a written response to the complaint shall be sent by the Equal Opportunity/Affirmative Action Officer to all persons involved. This shall be done no later than thirty (30) calendar days from receipt of the findings from the designated administrative investigator. The time may be extended by the President's designee.

If the complainant is not satisfied with the written response by the President/designee and/or Equal Opportunity/Affirmative Action Officer, she/he may initiate formal external procedures (see Formal External Review Procedures-Attachment B). g. Appeal Procedures

If a complainant is not satisfied with the outcome of the complaint process described above, she/he may file a written appeal with the President of CSUS or the President's designee within five (5) working days of receipt of the response from the Equal Opportunity/Affirmative Action Officer. The appeal shall outline the basis upon which the complainant believes the appeal should be granted.

The President or the President's designee will acknowledge receipt of the appeal within five (5) working days and will, within twenty (20) working days, provide a written decision to the complainant and respondent. The President's decision is the final University decision.

Attachments: A: Regulations and Liability B: Formal External Review

ATTACHMENT A REGULATIONS AND LIABILITY

Sexual harassment has been defined for faculty and staff by the Equal Employment Opportunity Commission as a violation of Sec 703 of Title VII of the Civil Rights Act of 1964, as amended.

1. Under Title VII, the University is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment. This responsibility is imposed on the University regardless of whether the specific acts complained of were authorized or even forbidden by the University and regardless of whether the University knew or should have known of their occurrence. The University will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.

2. With respect to persons other than those mentioned in subsection (1) above, the University is responsible for acts of sexual harassment in the workplace where the University, or its agents or

supervisory employees, knew or should have known of the conduct. The University may rebut apparent liability for such acts by showing they took immediate and appropriate corrective action.

3. Individuals are also liable for their acts. Such liability may include tort or criminal liability for assault and battery.

Students

Students' complaints against a faculty member or staff are covered under Title IX of the Civil Rights Act of 1964. Title IX prohibits discrimination based on sex in all federally assisted educational programs. Title IX requires the institution to adopt and publish a procedure for prompt and equitable resolution of the students' complaints. (The impact of sexual harassment on students has great potential for harm. They may fear academic reprisals such as lower grades or denial of recommendations.)

The Equal Opportunity/Affirmative Action Officer has been designated the Title IX Coordinator who is responsible for explaining the procedures for filing complaints of discrimination based on sex and sexual harassment and for receiving and directing such complaints to the proper processing party. FORMAL EXTERNAL REVIEW

A formal external review* may be done by any of the following:

Fair Employment and Housing Commission - 365 days from last incident

Equal Employment Opportunity Commission - 300 days (10 months) from last incident

Office of Federal Contract Compliance - Compliance must be met on a day-to-day basis in accordance with Executive Order 11246

U. S. Department of Education - 180 days from last incident or 60 days from the outcome of grievance complaint.

Civil Courts - One year from date of discovery

Criminal Courts - Misdemeanor, 1 year - Felony, 3 years

* Procedures and time limits are subject to change and the complainant is responsible for determining his/her rights and the agencies' procedures.

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