



OFFICE OF THE EXECUTIVE VICE PRESIDENT AND UNIVERSITY TREASURER

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University of Delaware Policies and Procedures Manual

Section: Personnel

Policy Number: 4-29

Policy Name: University Policy Against Sexual and Other Unlawful Harassment

Date: August 25, 1998

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I. PURPOSE

The purpose of the policy set forth below is to promote an academic and work environment that is free from all forms of unlawful harassment and discrimination whether that discrimination or harassment is because of race, color, gender, age, religion, national origin, disability, veteran status or any other characteristic protected by law. It is designed to ensure a safe and nondiscriminatory environment that protects both the constitutional and civil rights of students, faculty and staff.



II. POLICY

The University of Delaware is committed to protecting the rights and dignity of all employees and students, and seeks to maintain an environment that is free from all forms of unlawful harassment and discrimination. The University will not tolerate any form of unlawful harassment and discrimination. Under law, unlawful harassment is a form of unlawful discrimination. Unlawful harassment and discrimination are a violation of federal and state law, including Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the Delaware Fair Employment Practices Act. Nothing in this policy is meant to infringe upon First Amendment or academic freedom protections set forth in the Handbook for Faculty and in the Collective Bargaining Agreement between the University of Delaware and the American Association of University Professors.

Unlawful harassment goes beyond the mere expression of views or thoughts (spoken or written) that an individual may find offensive. The conduct must be sufficiently serious to unlawfully limit an employee's or student's ability to participate in or benefit from the activities of the University. Further, prohibited conduct must be evaluated from the perspective of a reasonable person in the alleged victim's position, taking into account all of the circumstances involved in a particular matter.

Sexual Harassment

Sexual harassment includes 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 or academic advancement, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting such individual, or (3) such conduct has the purpose or effect of unlawfully interfering with an individual's work or academic performance or unlawfully creating an intimidating, hostile, or offensive working or academic environment.

The following types of actions may constitute sexual harassment, whether the harasser is a co-worker, supervisor, student or faculty member:

- demand for sexual favors accompanied by implied threats about the person's employment status, or implied promises of preferential treatment

- persistent, unwelcome flirtation, requests for dates, advances or propositions of a sexual nature
- unwanted touching such as patting, pinching, hugging or repeated brushing against an individual's body
- repeated degrading or insulting comments that demean an individual's sexuality or sex
- unwarranted displays of sexually suggestive objects or pictures
- sexual assault

Other Unlawful Harassment

Other unlawful harassment includes any verbal or physical conduct toward another that is based on the other's race, color, sex, religion, national origin, disability, veteran status or any other characteristic protected by law, and that (1) unlawfully creates an intimidating, hostile, or offensive learning and/or working environment or (2) unlawfully interferes with an individual's work or academic performance.

Threatening, intimidating or engaging in hostile acts that create an unlawful, hostile environment based on an individual's race, color, gender, religion, national origin, disability, veteran status or any other characteristic protected by law may constitute unlawful harassment, whether the harasser is a co-worker, supervisor, student or faculty member.

Corrective Action

Supervisory personnel are responsible for maintaining an academic and work environment that is free of unlawful harassment and discrimination. Immediate and appropriate corrective action will be taken when instances of unlawful harassment and discrimination occur. Supervisors should consult with the Office of Labor Relations in such cases.

Non-Retaliation

It is a violation of University policy to retaliate in any way against students or employees because they have raised allegations of sexual or other unlawful harassment. Because a charge of unlawful harassment may have serious consequences, complainant(s) must bring the charge in good faith and in accordance with University policy. Person(s) against whom the complaint is lodged also bear a responsibility to abstain from retaliatory behavior toward the complainant(s) outside the established channels of redress. A complainant whose allegations are found to be false or to have been brought with malicious intent will be subject to disciplinary action.

III. COMPLAINT PROCEDURES

A. Lodging a Complaint

Employees/students who believe that they are being subjected to unlawful harassment, including sexual harassment, should discuss the matter with their supervisor/advisor, if appropriate, or directly contact the [Office of Women's Affairs \(OWA\)](#) or the [Office of Affirmative Action \(OAA\)](#) for confidential support, information and possible informal resolution. Faculty members who believe they are being subjected to unlawful harassment, or are being accused of unlawful harassment, should contact the [AAUP](#). Complaints of unlawful harassment will be referred to the Vice President for Administration for further investigation and corrective action. Employees/students may contact the [Vice President for Administration](#) directly if they feel they have been subjected to unlawful harassment. Complaints will be investigated by the Vice President. (Rev. Office of Administration 8/25/98 ; Handbook updated 4/9/01)

B. Procedures

Upon receipt of an allegation of sexual or other unlawful harassment, the Vice

President for Administration will meet with the individual against whom the complaint has been made, his/her department chairperson or immediate supervisor, college dean or unit head. The director of OWA or OAA will be in attendance, as appropriate. (Rev. Fac. Sen. 2/10/97)

The AAUP will be notified if the complaint involves a faculty member(s) in any way. If the accused is a faculty member, the AAUP will be notified in time to allow consultation with the accused prior to the meeting. The Vice President for Administration will advise the accused that it is in his/her best interest to seek out the appropriate AAUP officer for consultation prior to any meetings. (Rev. Fac. Sen. 2/10/97)

Where indicated, the Vice President for Administration may interview other individuals to ascertain the validity of the complaint. However, the investigation will proceed in a timely manner. (Rev. Fac. Sen. 2/10/97)

If the Vice President for Administration finds the charge of unlawful harassment is supported, prompt and appropriate corrective action will be taken. This may include one or more of the following actions depending on the severity of the offense:

- A verbal warning that a repetition of the reported impropriety will result in formal action.
- Placement of a letter in the individual's personnel file indicating the nature of the improper behavior. The letter may include a notation about required counseling and any action that will be taken in the future should there be a repetition of the offensive behavior(s).
- Immediate removal of the individual from the classroom/worksite and placement on leave of absence so that the individual can receive appropriate medical attention. Return to teaching and/or professional duties will be guided by the individual's progress.
- Initiation of formal action by the dean or appropriate vice president to dismiss the individual from the University's employ. For faculty, dismissal will follow the procedures set forth by the Faculty Senate Committee on Welfare and Privileges.

The Vice President for Administration will, as soon as practicable, notify the complainant(s) when the investigation has concluded and indicate the nature of any corrective action taken.

C. Formal Redress

A more formal means of redress from sexual or other unlawful harassment may also be sought through grievance procedures.

For faculty, a complaint may be brought before the [Faculty Senate Committee on Welfare and Privileges](#). A faculty complainant may also appeal the results of the informal procedures to the same committee. Upon review of a written appeal, the Committee may elect to pursue the matter and make additional recommendations to the University Provost. A grievance may be commenced under the collective bargaining agreement if the informal procedures set forth above have not been properly followed.

For hourly employees, the grievance procedures are found in their collective bargaining agreements. ([AFSCME Local 439](#), [AFSCME Local 3472](#).)

For UD police officers, the grievance procedures are found in their [collective bargaining agreement](#).

For professional and salaried staff, the grievance procedures are found in the [Personnel Policy & Procedures Manual for Professional & Salaried Staff](#).

For students, the grievance procedures are found in the [Student Guide to University Policies](#).

(Rev. 6/5/89; updated 11/15/93; revised Office of Employee Relations, 2/96; Rev. Fac. Sen. 2/10/97; corrected 6/97) (Last editorial update 4/10/01)

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Submitted by: [Labor Relations](#)

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