

Standard Practice Guide Policies

Sexual Harassment

201.89-
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Applies to: All Faculty and Staff Members

POLICY

It is the policy of the University of Michigan to maintain an academic and work environment free of sexual harassment for students, faculty, and staff. Sexual harassment is contrary to the standards of the University community. It diminishes individual dignity and impedes equal employment and educational opportunities and equal access to freedom of academic inquiry.

Sexual harassment is a barrier to fulfilling the University's scholarly, research, educational, and service missions. It will not be tolerated at the University of Michigan.

Sexual harassment violates the University's long-standing policy against discrimination on the basis of sex. Sexual harassment is also illegal. It is prohibited in the employment context by Title VII of the 1964 Civil Rights Act, in the education context by Title IX of the Educational Amendments of 1972, and, in both employment and education contexts, by Michigan's Elliott-Larsen Civil Rights Act, adopted in 1976.

A claim under this policy may be brought by the University or by a faculty, staff or student member of the University community based on the conduct of any University employee.

Complaints based on conduct of students who are not also employees of the University are addressed in the Statement of Student Rights and Responsibilities, which is administered by the Office of Student Conflict Resolution. Rackham graduate students may also contact Graduate Student Affairs in the Rackham Graduate School. Persons who lodge sexual harassment complaints or participate in the investigation of such a complaint are protected from retaliation (e.g., adverse action or consequences) for those actions. Retaliation will not be tolerated at the University of Michigan.

Sexual harassment can be a very serious matter having far-reaching effects on the lives and careers of individuals. Intentionally false accusations can have similar impact. A person who knowingly and intentionally files a false complaint under this policy is subject to University discipline. Both a person who sexually harasses another, and a person who knowingly and intentionally files a false complaint under this policy, are subject to University discipline.

An individual may engage in conduct of a sexual nature that may not be sufficiently severe, persistent or pervasive to constitute sexual harassment as described below, but is nonetheless inappropriate. Such conduct also will not be tolerated by the University, is prohibited by the University and is subject to discipline up to and including termination of employment.

DEFINITION OF SEXUAL HARASSMENT

For the purposes of determining whether a particular course of conduct constitutes sexual harassment under this policy, the following definition will be used:

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

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, living environment, or participation in a University activity;
- (2) submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a University activity; or
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's employment or educational performance or creating an intimidating, hostile, offensive, or abusive environment for that individual's employment, education, living environment, or participation in a University activity.

Some examples of conduct that may constitute sexual harassment include, but are not limited to:

Unwanted sexual statements – sexual or “dirty” jokes, comments on physical attributes, spreading rumors about or rating others as to sexual activity or performance, talking about one's sexual activity in front of others, and displaying or distributing sexually explicit drawings, pictures and/or written material. Unwanted sexual statements can be made in person, in writing, electronically (email, instant messaging, blogs, web pages, etc.), and otherwise.

Unwanted personal attention – letters, telephone calls, visits, pressure for sexual favors, pressure for unnecessary personal interaction, pressure for dates where a sexual/romantic intent appears evident but remains unwanted, and stalking.

Unwanted physical or sexual advances – touching, hugging, kissing, fondling, touching oneself sexually for others to view, sexual assault, intercourse, or other sexual activity.

Conduct alleged to be sexual harassment will be evaluated by considering the totality of the particular circumstances, including the nature, frequency, intensity, location, context, and duration of the questioned behavior. Although repeated incidents generally create a stronger claim of sexual harassment, a serious incident, even if isolated, can be sufficient.

This policy addresses intentional conduct. It also addresses conduct which results in negative effects even though such negative effects were unintended. Sexually-related conduct forms the basis of a sexual harassment claim if a reasonable person, in view of all the surrounding circumstances, would consider it sufficiently severe, persistent or pervasive as to interfere unreasonably with academic, other educational, or employment performance or participation in a University activity or living environment.

Sexual harassment most often occurs when one person has actual or apparent power or authority over another; however, it may also occur between individuals of equal status or rank within the University. It is also possible for a person who is not in a position of power or authority over another to sexually harass that person, such as a professor being sexually harassed by a student or a supervisor being sexually harassed by a supervisee. Sexual harassment occurs between persons of the same gender and persons of different genders.

Alleged discriminatory behavior that does not include conduct of a sexual nature is not covered by this policy; however, the discriminatory conduct is addressed by other University policies prohibiting discrimination (e.g., sex, gender identity, gender expression, sexual orientation, etc.). In some cases, an individual may allege there has been discriminatory action in addition to unwelcome conduct of a sexual nature. In these instances, the matter is assessed under the policy prohibiting the type of discrimination alleged as well as this sexual harassment policy and any other applicable University policy.

CONSENSUAL RELATIONSHIPS

In 1986 the University's Senate Assembly adopted a statement of principle concerning relationships between faculty (including teaching assistants) and students. The University concurs with the Assembly's position that sexual relationships, even mutually consenting ones, are a basic violation of professional ethics and responsibility when the faculty member has any professional responsibility for the student's academic performance or professional future.

Romantic and/or sexual relationships with students are addressed in SPG 601.22 – Faculty-Student Relationships and SPG 601.22-1 – Employee-Student Relationships.

The University's nepotism policy precludes individuals from evaluating the work performance of others with whom they have intimate familial or close personal relationships, or from making hiring, salary, or similar financial decisions concerning such persons, without prior written approval. Issues of nepotism are addressed under SPG 201.23 – Appointment of Relatives and Others with Close Personal or External Business Relationships.

Romantic or sexual relationships with students which occur outside of the instructional or supervisory context may also lead to difficulties. The Senate Assembly has concluded, and the University concurs, that the asymmetry of the faculty-student relationship means that any sexual relationship between a faculty member and a student is potentially exploitive and should be avoided. Faculty and staff engaged in such relationships should be sensitive to the constant possibility that they may unexpectedly be placed in a position of responsibility for the student's instruction or evaluation.

In the event of a charge of sexual harassment, the University will in general be unsympathetic to a defense based upon consent when the facts establish that a professional faculty-student, staff-student, or supervisor-employee power differential existed within the relationship.

RESPONSE AND PROCEDURES

Prevention and Education. The University is committed to preventing and eliminating sexual harassment of students, faculty, and staff. To that end, this policy will be published on the University's web site. Information regarding sexual harassment and this policy will be included in orientation materials for new students, faculty, and staff and made available in the Office of Institutional Equity and other appropriate locations on each campus. In addition, appropriate educational sessions will be conducted by the University on an ongoing basis to (1) inform students, faculty, and staff about identifying sexual harassment and the problems it causes, (2) advise members of the University community about their rights and responsibilities under this policy, and (3) train personnel in the administration of this policy.

Assistance with Sexual Harassment Concerns. The Office of Institutional Equity is responsible for ensuring and monitoring the University's compliance with federal and state nondiscrimination laws. However, a discrimination-free environment is the responsibility of every member of the community. The University can take corrective action only when it becomes aware of problems. Therefore, the University encourages persons who believe that they have experienced or witnessed sexual harassment to come forward promptly with their inquiries, reports, or complaints and to seek assistance within the University. Individuals also have the right to pursue a legal remedy for sexual harassment in addition to or instead of proceeding under this policy.

Confidential Counseling. Information about or assistance with sexual harassment issues may be obtained from a variety of University resources. Prior to or concurrent with lodging a sexual harassment complaint, individuals may find it helpful to consult with a counselor or otherwise seek assistance. The following offices provide advice and support to individuals who believe they are experiencing sexual harassment. All information shared with these offices will remain confidential to the extent permitted by law and University policy. Discussions with representatives of these offices will not be considered a report to the University regarding the problematic behavior and will not, without additional action by the complainant, result in intervention or corrective action.

FASAP – Faculty and Staff Assistance Program (Faculty and Staff)

(734) 936-8660

www.umich.edu/~fasap/ (www.umich.edu/~fasap/)

UMHS Employee Assistance Program (Hospital and Health Centers Staff)

(734) 763-5409

www.med.umich.edu/mworks/eap/ (www.med.umich.edu/mworks/eap/)

CAPS – Counseling and Psychological Services (Students)

(734) 764-8312

www.umich.edu/~caps/ (www.umich.edu/~caps/)

SAPAC – Sexual Assault Prevention and Awareness Center (Faculty, Staff and Students)

(734) 998-9368

www.umich.edu/~sapac/ (www.umich.edu/~sapac/)

Office of the Ombuds (Students)

(734) 763-3545

www.umich.edu/~ombuds/ (www.umich.edu/~ombuds/)

University Faculty Ombuds (Faculty)

(734) 764-0303

www.umich.edu/~facombud/ (www.umich.edu/~facombud/)

UM-Dearborn Counseling and Support Services (Faculty, Staff and Students)

(313) 593-5430

http://www.umd.umich.edu/css_support/ (http://www.umd.umich.edu/css_support/)

UM-Flint Division of Student Affairs - Counseling Services and Ombuds (Students) (810) 762-3456

<http://www.umflint.edu/dsa/> (<http://www.umflint.edu/dsa/>)

U-M Flint Faculty Ombuds (Faculty)

(810) 762-3424

www.umflint.edu/provost (www.umflint.edu/provost)

Lodging a Complaint. An individual may complain to the University about alleged sexually harassing behavior or retaliation by contacting a University official, such as a supervisor; Dean, Director or department head; the Office of Institutional Equity; the appropriate Human Resources Office; the Dean of Students (for students); the Dean's Office of the Horace H. Rackham Graduate School (for graduate students); the Center for the Education of Women; and the Department of Public Safety. If an employee is represented by a union and the terms of the collective bargaining agreement provide for a different procedure for pursuing a sexual harassment complaint, the terms of the collective bargaining agreement shall prevail. If the complaint is against a student, the complainant may elect to pursue a formal charge through the appropriate student grievance procedure. In addition, any member of the University community may utilize appropriate University resources for guidance and support during the investigation process (e.g., Center for the Education of Women, Sexual Assault Prevention and Awareness Center, etc.).

Investigation and Investigation Procedures. The University will handle sexual harassment complaints consistently with procedural guidelines developed to ensure prompt and equitable resolution of such complaints. Complainants and Respondents will be given copies of the procedural guidelines, and the guidelines will also be made readily available to the University

community. The matter will then proceed to investigation or other form of effective and fair review. The investigation or review may be performed by the Office of Institutional Equity, or jointly with another office, as determined by OIE.

The purpose of an investigation, which will include interviewing the parties and witnesses, is to gather and assess evidence. During the course of an investigation, the investigating office will work collaboratively with other appropriate University offices. For example, if a faculty member is involved in a complaint, the Office of Institutional Equity would generally work collaboratively with the Office of the Provost; the appropriate Dean, Director or Department Head; and Academic Human Resources. If a staff member is involved in the complaint, the Office of Institutional Equity would work collaboratively with Staff Human Resources, the supervisor, the Unit Human Resources Representative and other appropriate departmental and University officials.

Possible outcomes of an investigation are (1) a finding that the allegations are not warranted or could not be substantiated, (2) a finding that the allegations are substantiated and constitute sexual harassment or inappropriate behavior and, if so, (3) referral to the appropriate administrative authority for corrective action.

Corrective Action. Corrective action could include a requirement not to repeat or continue the harassing or retaliatory conduct, a reprimand, denial of a merit pay increase, reassignment, suspension and termination. The severity of the punishment will depend on the frequency and severity of the offense and any history of past discriminatory or retaliatory conduct. A finding of sexual harassment may be cause for the separation of the offending party from the University, in accordance with University procedures, including, for qualified faculty, the procedures set forth in Regents' Bylaw 5.09. Every effort will be made to assure University-wide uniformity of sanctions for similar offenses.

University Action. The University may assume the role of a complainant and pursue a report or complaint of sexual harassment, either informally or formally. The University may respond to complaints or reports by persons external to the University community about alleged sexually harassing conduct by University employees. If the accused is a faculty member to whom Regents' Bylaw 5.09 applies, the Provost or executive authority of the relevant unit may initiate the procedures of Bylaw 5.09 at any stage in the process, if the circumstances indicate that such action is warranted.

Reporting Requirements. To assure University-wide compliance with this policy and with federal and state law, the Office of Institutional Equity must be advised of all reported incidents of sexual harassment and their resolution. The Office of Institutional Equity will monitor repeated complaints within the same unit or against the same individual, where identified, to assure that such complaints are appropriately handled.

Retaliation. The University will take appropriate steps to assure that a person who in good faith reports, complains about, or participates in an informal resolution or formal investigation of a sexual harassment allegation will not be subjected to retaliation. The University also will take

appropriate steps to assure that a person against whom such an allegation is made is treated fairly. The University will also take appropriate follow-up measures to assure the goals of this policy are met. Persons who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with the University using the same procedure for lodging a sexual harassment complaint.

The Procedural Guidelines for Handling Harassment Complaints may be found at:

<http://www.hr.umich.edu/procedures/spg201-89-0.html>

(<http://www.hr.umich.edu/procedures/spg201-89-0.html>).

File Attachments

Printable PFD of SPG 201.89-0, Sexual Harassment

(<http://www.spg.umich.edu/sites/default/files/201x89-0.doc.pdf>)

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All Faculty and Staff Members

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University Human Resources and the Office of the Provost and Executive Vice President for Academic Affairs

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April 1, 2015

Related Policies:

Appointment of Relatives or Others with Close Personal or External Business Relationships; Procedures to assure Equal Opportunity and to Avoid the Possibility of Favoritism (Nepotism) (/policy/201.23)

Employee-Student Relationships (/policy/601.22-1)

Faculty-Student Relationships (/policy/601.22)

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