

Sexual Harassment Policy

Policy Number:

101.0

Effective Date:

12/2000

Revised Date:

12/2000

Reference:

Applicable Federal Law, Arizona Board of Regents Policy 6-707

The University of Arizona (University) prohibits unlawful discrimination, including harassment, on the basis of race, color, religion, sex, national origin, age, disability, veteran's status, or sexual orientation. Sexual harassment is a form of sex discrimination that is specifically prohibited by this policy. The University's Sexual Harassment Policy is based on the provisions of Title VII of the Civil Rights Act of 1964, the Education Amendments of 1972, and other applicable laws that prohibit discrimination because of sex.

The University is committed to creating and maintaining an environment free of sexual harassment. Every member of the University community should be aware that the University does not tolerate sexual harassment and that both law and University policy prohibit such behavior. This policy prohibits sexual harassment by University employees, students, contractors and agents of the University, and by anyone participating in a University sponsored activity. The University will take prompt and appropriate action to prevent, correct, and if necessary, discipline behavior that violates this policy. All University employees are responsible for participating in the creation of a campus environment free from sexual harassment.

DEFINITION

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

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, or participation in a University sponsored activity; or

- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions, education decisions, or other decisions affecting an individual's participation in a University activity; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, education, or participation in a University sponsored activity or creating an intimidating, hostile, or offensive work or educational environment.

In determining whether alleged conduct constitutes sexual harassment, the Equal Opportunity and Affirmative Action Office will look at the record as a whole and the totality of the circumstances, such as the nature of the sexual conduct and the context in which the alleged incidents occurred. The legality of a particular action will be determined from the facts, on a case-by-case basis.

REPORTING SEXUAL HARASSMENT

An individual who believes he/she has been subjected to sexual harassment should report the harassment immediately so the University can take prompt action.

- ***For all incidents of sexual harassment EXCEPT those in which both parties are students***, contact the Equal Opportunity and Affirmative Action Office for information on resolution of sexual harassment concerns, including complaint options and procedures. The procedures for filing complaints are also addressed in the Equal Opportunity and Affirmative Action Office Internal Procedures for Investigating Complaints and Conducting Administrative Reviews publication that is available from the office or on the web at <http://fp.arizona.edu/affirm/Invprocp.htm>. The Equal Opportunity and Affirmative Action Office is located at:

University Services Building(Main Gate Center), Room 217

Phone: (520) 621-9449, TTY (520) 626-6768

- ***If BOTH the alleged harasser and victim of sexual harassment are students***, contact the Dean of Students Office. The Associate Dean of Students for Judicial Affairs is located at:

Old Main, Room 211

Phone: (520) 621-7059

University employees and students have the right to file a complaint with an agency outside the University and may file the same complaint concurrently with the University's Equal Opportunity and Affirmative Action Office. A complaint filed with an external agency will neither delay nor stop the University's investigation concerning the same or similar events. The external agencies that address complaints of unlawful discrimination, including sexual harassment, are:

- Arizona Civil Rights Division - Office of the Arizona Attorney General
- Equal Employment Opportunity Commission
- Office of Civil Rights, Region VIII - U.S. Department of Education
- Office of Federal Contract Compliance Programs

There are deadlines for filing a complaint with the University's Equal Opportunity and Affirmative Action Office and with outside agencies. The specific deadlines are available by:

- Visiting the Equal Opportunity and Affirmative Action Office website at <http://fp.arizona.edu/affirm/>;
- Contacting the Equal Opportunity and Affirmative Action Office; or
- Contacting the outside agencies themselves.

Note: Filing a complaint with the Equal Opportunity and Affirmative Action Office does NOT stop the deadline for filing with an outside agency

MANAGEMENT RESPONSIBILITIES

Employees or agents of the University who (a) supervise other employees, contractors, or agents; (b) teach or advise students; or (c) have management authority related to a University sponsored activity, student program, or activity are required to:

- Engage in appropriate measures to prevent violations of this policy; and
- Promptly notify the Equal Opportunity and Affirmative Action Office after being informed of or having a reasonable basis to suspect a policy violation. If both parties involved are students, the Dean of Students must be notified.

Supervisors and managers shall not take disciplinary or contract action or remove a person from a University sponsored activity for an alleged policy violation prior to consultation with the Equal Opportunity and Affirmative Action Office. In situations where a supervisor reasonably believes there is imminent danger of serious bodily harm and is unable to reach a member of the Equal Opportunity and Affirmative Action Office, the supervisor should take immediate and appropriate action, including separating the complainant and the alleged harasser and/or notifying law enforcement. Such action shall be only temporary until the supervisor can contact the Equal Opportunity and Affirmative Action Office. Additionally, any action taken may not disadvantage the complaining party. In instances where a supervisor has taken independent action, the supervisor shall notify the Equal Opportunity and Affirmative Action Office as soon as possible after taking such action.

When an Equal Opportunity and Affirmative Action Office investigation finds a policy violation, the Equal Opportunity and Affirmative Action Office will issue recommendations for action to the appropriate organizational unit administrator. If the unit administrator unduly delays or refuses to take appropriate action, the Equal Opportunity and Affirmative Action Office will refer the matter to the Senior Vice President for Business Affairs, the Provost and Senior Vice President for Academic Affairs, or the President.

CONSEQUENCES OF POLICY VIOLATIONS

The recommendations issued by the Equal Opportunity and Affirmative Action Office upon finding a policy violation will be designed to correct the situation and prevent future violations. These recommendations may include any of the sanctions set out at Arizona Board of Regents' Policies 5-304, 5-308, and/or any of the following:

- ***For employees***, counseling, education, and/or adverse administrative action, up to and including termination of employment;
- ***For students***, counseling, education, and/or adverse administrative action, up to and including dismissal from the University;
- ***For other agents of the University***, appropriate action, up to and including termination of the agency relationship; and
- ***For participants in a University sponsored activity***, appropriate action, up to and including removal from that activity.

An individual facing disciplinary action based on a policy violation may utilize all applicable processes offered under the Classified Staff Human Resources Policy Manual, University Handbook for Appointed Personnel, [Student Code of Conduct](#), [Arizona Board of Regents' Policy Manual](#), or any other applicable process.

GENERAL GUIDELINES

Confidentiality

Employees of the Equal Opportunity and Affirmative Action Office and Dean of Students Office and responsible administrators receiving reports of sexual harassment shall maintain confidentiality of information received, except where disclosure is required by law or is necessary to facilitate legitimate University processes, including the investigation and resolution of sexual harassment allegations.

Anonymous Complaints

All members of the University community may contact the Equal Opportunity and Affirmative Action Office at any time to ask questions about sexual harassment or complaint procedures without disclosing their names and without filing a complaint. However, because of the inherent difficulty in investigating and resolving allegations from unknown persons, individuals are discouraged from making anonymous complaints of sexual harassment.

Although anonymous complaints are discouraged, the University will reasonably respond to all allegations of sexual harassment. In order to determine the appropriate response to an anonymous allegation, the University will weigh the following factors:

- The source and nature of the information;
- The seriousness of the alleged incident;
- The objectivity and credibility of the source of the report;
- Whether any individuals can be identified who were subjected to the alleged harassment; and
- Whether those individuals want to pursue the matter.

If based on these factors it is reasonable for the University to investigate the matter, the Equal Opportunity and Affirmative Action Office will conduct an investigation and recommend appropriate action to address substantiated allegations. However, a reasonable response would not include disciplinary action against an alleged harasser if an accuser insists that his or her name not be revealed, if there is insufficient corroborating evidence, and if the alleged harasser could not respond to the charges of sexual harassment without knowing the name of the accuser.

Retaliation

The law prohibits retaliation against individuals who engage in protected activity related to sexual harassment. An individual is protected from retaliation when he/she:

- Files a sexual harassment complaint or testifies, assists, or participates in any manner in an investigation or other proceeding related to such a complaint; or
- Opposes conduct reasonably believed to constitute sexual harassment to one's self or to others, even if the individual has not filed a sexual harassment complaint and is not involved in the investigation of such a complaint.

Essentially, any adverse action that is reasonably likely to deter a complaining party or others from engaging in protected activity is prohibited. Allegations of retaliation will be investigated, and if substantiated, will result in appropriate disciplinary action.

Good Faith Allegations

Because of the nature of sexual harassment, allegations often cannot be substantiated by direct evidence other than the complaining party's own statement. Lack of corroborating evidence should not discourage individuals from seeking relief under this policy. No action will be taken against an individual who makes a good faith allegation of sexual harassment, even if after investigation the allegation is not substantiated. However, allegations or statements made in the course of an investigation or enforcement procedure found to be intentionally dishonest or made with willful disregard for the truth may subject the individual to disciplinary action.

RELATED PROVISIONS

Affiliated Entities

University employees and students sometimes work or study at the worksite or program of another organization affiliated with the University. When a policy violation is alleged by or against University employees or students in those circumstances, the complaint shall be handled as provided in the affiliation agreement between the University and the other entity. In the absence of an affiliation agreement or a provision addressing sexual harassment allegations, the University may, in its discretion, choose to:

- Conduct its own investigation;
- Conduct a joint investigation with the affiliated entity;
- Defer to the findings of an investigation by the affiliated entity where the University has reviewed the investigation process and is satisfied that it was fairly conducted; or
- Use the investigation and findings of the affiliated entity as a basis for further investigation.