

University of Arkansas at Little Rock School of Law

Sexual Harassment Policy

1. POLICY

A. Statement of Policy

The University of Arkansas at Little Rock explicitly condemns sexual harassment as a violation of an individual's human rights and dignity and as a form of discrimination based upon sex.

Therefore, the policy of the University of Arkansas at Little Rock is that members of the University community neither commit nor condone sexual harassment in any form. This prohibition applies equally to male and female staff, faculty and students, to all other persons on premises subject to University control and to those engaged to further the interests of the University.

Employees and students who engage in sexual harassment will be subject to applicable disciplinary processes. Sexual harassment is unlawful and may also subject those who engage in it to civil and criminal penalties.

The University is committed to providing an environment free from sexual harassment. Therefore, the University administration strongly encourages all University of Arkansas at Little Rock community members to report incidents of sexual harassment. To that end, reporting and investigating procedures are supportive of and sensitive to the alleged victim. At the same time, they adequately safeguard the rights of the alleged offender.

B. Policy Rationale

Sexual harassment is reprehensible. It subverts the mission of the University by threatening the careers, educational experience and general well-being of every member of the University community. In both obvious and subtle ways, sexual harassment destroys an individual's ability to function at his or her highest level and has a harmful effect on one's ability to study, work, or engage in leisure activities within the University community. Although sexual harassment often takes place when the people involved have unequal power (as between a supervisor and employee or between a teacher and student), sexual harassment also occurs between people who have equal power and status in the University community (as between students or between co-workers). The purpose of the University of Arkansas at Little Rock's sexual harassment policy is to educate members of the University community about the harms caused by sexual harassment and about behaviors which constitute harassment based on an individual's sex or gender. Finally, and most importantly, the purpose of this policy is to eradicate sexual harassment within the University community.

II. SEXUAL HARASSMENT DEFINED

Sexual harassment is defined as unwanted, unwelcome, inappropriate or irrelevant sexual or gender-based activities or comments when:

1. submission to such conduct is either explicitly or implicitly made a term of condition of an individual's employment with the University or a factor in the educational program or University-related activities of a student; or
2. submission to or rejection of such conduct by an individual is used as a basis for an employment or educational decision affecting such individual; or
3. such conduct has the purpose or effect of interfering with an individual's work or educational performance; or
4. such conduct creates an intimidating, hostile, offensive or demeaning environment.

III. EXAMPLES OF SEXUAL HARASSMENT

The University takes the broadest possible view consistent with law and reason regarding conduct encompassed by the phrase "sexual harassment." The inclusion of examples and descriptions in this policy statement is not intended to exclude other conduct from being deemed sexual harassment. They are provided to inform the University community of expected standards of professional and responsible conduct. A determination of the occurrence of sexual harassment is based upon the nature and context of the conduct.

All members of the University community have a responsibility to behave in such a manner that their words or actions cannot reasonably be perceived by the recipient of those words or actions as coercive, abusive, or exploitive. Regardless of the specific intent of the alleged harasser, conduct having the characteristics or effect of sexual harassment will be treated as sexual harassment. Where there is a rational connection with University functions, processes, and operations, off campus conduct is subject to this policy.

1. Sexual harassment creates a hostile, abusive, demeaning, offensive, or intimidating environment. It is manifested by verbal and/or physical actions, including gestures and other symbolic conduct which may be, but are not necessarily, aimed at a particular individual. Examples include verbal harassment and abuse of a sexual or gender-specific nature, such as sexually explicit statements, questions, jokes, or anecdotes; display of sexually demeaning objects or pictures; and remarks about sexual activity or speculations about previous or future sexual experience. Sexual harassment includes unnecessary or unwelcome touching, patting, hugging, or brushing against a person's body; staring at or ogling of a person's body; and inappropriate comments about one's body or clothing. It includes unwanted sexual activities, sexual advances or requests for sexual favors, and physical assault.
2. Sexual harassment also includes slurs about one's gender, contrived work or study assignments, and assigning more onerous or unpleasant tasks predominately to employees or students of one gender.

IV. CONSENSUAL RELATIONSHIPS

Incidents of sexual harassment may involve persons having unequal power, authority, or influence. Threats of adverse consequences or promises of reward may be implied solely by circumstances of unequal power. Therefore, the University recognizes an inherent conflict of interest when an individual exercises supervisory, educational, or other institutional authority over an individual and makes sexual overtures toward that individual.

For this reason, no faculty member shall begin an amorous relationship with a student who is enrolled in a course taught by the faculty member or whose academic work (including work as a teaching assistant) is supervised by the faculty member. Furthermore, a faculty member who has had or is currently involved in an amorous relationship with a student shall, to the extent possible, withdraw from participation in instructional activities, or decisions which may reward or penalize that student. Finally, the University strongly recommends that no faculty or staff member participate in an amorous relationship with a student or an employee of the University who is being supervised by that faculty or staff member.

Decisions affecting employees and students should be made solely on the basis of merit. This includes, but is not limited to, decisions affecting an employee's job responsibilities, promotion, pay, benefits, or other term or condition of employment; a student's grades, academic progress, benefits, or other term or condition of academic evaluation or student status; and recommendations, references, referrals, and opportunities for further study, employment or career advancement.

V. GRIEVANCE PROCEDURES

A. Introduction

The University of Arkansas at Little Rock 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.

This complaint procedure is internal to the University, and individuals with complaints are encouraged to follow it first. However, an aggrieved party also has the right to file a complaint of sexual harassment with the appropriate state or federal agency or a suit in a court with jurisdiction.

B. Offices with Responsibility of Discrimination Issues

The Office of Human Relations has overall responsibility for assuring University compliance with nondiscrimination laws and regulations. The Human Relations Officer receives both informal and formal complaints lodged against faculty, staff, and administration.

The Office of the Dean of Students has responsibility for student-to-student allegations of sexual harassment incidents. The Dean of Students or his/her designee is responsible for investigating harassment claims and for initiating disciplinary proceedings against students which may arise from a formal complaint. The Dean of Students may consult with other appropriate University officials if deemed necessary. Disciplinary files are maintained in the Dean of Students Office.

In addition to the offices officially designated to deal with grievances, problems and questions regarding sexual harassment, the complainant may discuss these issues with anyone in a supervisory position and/or the person against whom the complaint is made. For example, faculty members, department chairs, supervisors, Deans or Vice-Chancellors may be consulted.

VI. RESPONSIBILITY TO REPORT

It is the responsibility of all University faculty, administrators, managers and supervisors to inform the Human Relations Officer of all allegations of sexual harassment they receive and/or discriminatory situations of which they become aware.

VII. RETALIATION PROHIBITED

Retaliation against a student or employee for bringing a sexual harassment complaint is prohibited. In addition, retaliation against those persons who participate in such investigations and disciplinary procedures is also 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.

VIII. INCIDENT REPORTING REQUIREMENTS

For both the Formal and Informal Grievance Procedures outlined in this document, incidents should normally be reported within 30 days. (For example, student incidents occurring prior to the Christmas holidays could be reported after the resumption of class activities in the new year. It is the intent of this document that a reasonable degree of discretion be granted to appropriate University officials in order to achieve the goal of eliminating sexual harassment incidents.) The reporting requirement is presumed to have been met if the complainant has communicated with any of the persons enumerated in the "Responsibility to Report" section of this document. Such a contact satisfies all reporting time limits. If extenuating circumstances exist, the time limit may be waived by the appropriate University official. Written justification for the waiver will be placed in the file.

IX. INFORMAL COMPLAINT PROCEDURE

The goal of the informal complaint procedure is to resolve problems. No disciplinary action will be taken as a result of the informal complaint procedure.

Under the informal complaint procedure, complainants may consult with the Human Relations Officer EXCEPT THAT complaints by students against other students about conduct in University-related activities outside of an employment or teaching situation should be made to

the Office of Dean of Students.

Informal complaints may have several outcomes. The person raising the issue may only want to discuss the matter with a neutral party in order to clarify whether discrimination may be occurring and to determine his or her options, including the pursuit of more formal action. In such a situation, the Human Relations Officer will give assistance and offer suggestions as to how the issue might be resolved, without drawing a conclusion as to whether discrimination has occurred. In other cases, the Officer may be asked to serve as a mediator, to talk to the other person(s) to see whether an informal resolution of the issue can be reached. The supervisor or department chairperson of the other person(s) in the dispute may be notified that an informal complaint has been received, but that no investigation has taken place. A written record of this complaint will be made and maintained by the Human Relations Officer. If a written record is made and/or the supervisor is notified that an informal complaint has been made, the subject of the complaint must be notified and given the opportunity to provide a response for the written record. If resolution is reached by this process, no further action(s) will be taken and the matter will be considered closed. Issues not so resolved may require that further inquiries be made and/or that supervisors or department chairs take a more active role in finding a solution to the problem. Whenever possible complaints will be handled at the lowest level possible.

X FORMAL COMPLAINT PROCEDURES

A. General Procedures

Formal complaints against faculty, staff, and administration should usually be submitted to the Human Relations Officer within 30 calendar days of the most recent alleged discriminatory act. Formal complaints against students should usually be submitted to the Office of Dean of Students within 30 days of the most recent alleged discriminatory act or final action by the Ombudsperson.

Complaints by a student about the conduct of another student outside of an employment or teaching situation should be made to the Office of Dean of Students.

The Chancellor, Provost, Vice-Chancellors, Deans, or Ombudsperson may request that the Human Relations Officer conduct an investigation without a formal complaint from any one individual.

Formal stages of procedure commences with the filing of a signed, written complaint to the appropriate authority.

B. Procedures of the Human Relations Office

The investigation will begin by providing a copy of the formal written complaint to the individual against whom the complaint is lodged, together with a copy of these procedures. A written response will be required within 7 calendar days.

Within 10 calendar days after receipt of a complaint, the Human Relations Officer will consult

with the complainant, the alleged offender, and his/her supervisor/department chair, in an attempt to resolve the matter and/or determine whether further investigation is warranted. Should no resolution be reached and/or further investigation be warranted, the Officer will report the investigative finding within 30 calendar days of receipt of the written complaint. If, for any reason, an extension is necessary, the complainant will be informed of the reasons for the extension, the status of the investigation, and the probable date of completion.

The Human Relations Officer may at any point dismiss a formal complaint if it is found to be clearly without merit.

If, in the course of the investigation, the Human Relations Officer determines that corrective action is needed, that office will initiate discussions with the appropriate administrator to attempt to resolve the complaint. A formal investigation can be terminated at any time, e.g., if a satisfactory resolution is agreed to before a written finding is made or if an appropriate resolution is implemented without an agreement.

Upon completion of the investigation, the Human Relations Officer will notify the complainant and respondent(s), if any, and the Chancellor, appropriate Dean, Vice-Chancellor or Provost, department head or chair, or supervisor, in writing, of the findings and recommendations. Based on this information, the appropriate University official will determine the action he/she deems necessary to resolve the complaint and will communicate that decision to the involved individuals.

A complainant or respondent dissatisfied with the findings or recommendations may file a rebuttal statement with the Human Relations Officer, for inclusion in the investigation file. Such statements must be filed within 30 calendar days of the date the decision is received and will too become part of the investigation file.

Should the resolution of a complaint result in a disciplinary action, the faculty member, staff member, administrator, or student can seek review of such action using the appropriate University procedures. Appeals Procedures for faculty, students, and staff will follow the procedures required in the appropriate sections of the Classified Handbook, Faculty Handbook, or Student Handbook.

C. Student Sexual Offenses

Student sexual offenses are to be processed through the procedures set forth in Section VII of the UALR Student Handbook. Appeals will be made through the normal procedures set forth in the Student Handbook.

XI. CONFIDENTIALITY PROTECTION AND ITS LIMITATIONS

A. Informal Complaints and Disclosure

Every possible effort shall be made to ensure 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 Informal Report about the situation. The Human Relations Officer 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 Human Relations Officer 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 Human Relations Officer, therefore, should explore these alternatives rather than failing to take action because of the request for confidentiality. Action requiring disclosure of the complainant in some manner would not take place without consent of the complainant.

In the interests of fairness and problem resolution, disclosure of complaints and substance, except as compelled by law, will be limited to the immediate parties and other appropriate administration officials.

XII. COMPLAINTS OF FALSE CHARGES

Because of the nature of the problem, complaints of sexual harassment cannot always be substantiated. Lack of corroborating evidence should not discourage complainants from seeking relief through the formal procedures delineated in this document. However, charges found to have been intentionally dishonest or made maliciously without regard for truth will subject complainants to disciplinary action.

Individuals who believe they have been the target of willfully false or maliciously reckless formal charges should file a written complaint no later than 30 calendar days after they learn the nature of the allegations against them. If, for any reason, any extension is necessary, the time limits may be modified by the consent of both parties. They should submit their complaint to the Human Relations Office. The Human Relations Officer will make this complaint part of the formal investigation process. If the Officer finds sufficient grounds for the false-charge complaint, he/she must recommend to the Chancellor that disciplinary action be taken against the person who filed the false charges. If the evidence does not support the false-charge complaint, they will so inform both parties. Disciplinary action will be taken against the person(s) filing false charges.

XIII. FINAL DISPOSITION AND FOLLOW-UP

The facts about individual complaints and their disposition are confidential. An employee's supervisor will, however, inform the complainant and respondent, in confidence of the result and/or sanctions associated with a formal case. Students will be similarly informed by the Office of Dean of Students.

A permanent written record of the formal complaint process and its outcome is ordinarily retained by the Human Relations Office.

An annual report will be prepared for the Chancellor, the Faculty Senate, and the UALR Assembly on the number and types of complaints. The Office of Dean of Students will prepare and submit a report to the Human Relations Officer who will compile the record for both formal and informal complaints for submission to the above parties.

XIV. COMPLAINTS FILED WITH OUTSIDE AGENCIES

When any member of the University community or persons denied admission, employment, or services files a complaint of discrimination with an outside federal or state agency, that agency will, as part of its investigation, request a response from the University to the charges in the complaint. The Human Relations Officer will prepare this response, usually after conducting an internal investigation of the complaint. Such investigations will not conform to the procedures for internal complaints, but instead to those of the outside agency.

Complaints from outside agencies sent directly to departments should be referred to the Human Relations Officer for response.

XV. EDUCATION

The aim of education on sexual harassment is not just to end specific harassment cases nor to combat something negative, but rather to help create a positive climate in which such harassment could find no place. Building this kind of positive climate involves everyone and encourages an environment that benefits all. The presentation of information within this philosophical framework moves all of us toward a “higher order communication ..” It develops awareness and acceptance of major differences of the members of one’s community. It develops a social context that is “more civilized.” Within this perspective, the discussion of sexual harassment is seen as one of many conditions which are symptoms of negative and limited perception which manifest themselves in other ways as well. The development of an attitude of appreciation of human diversity can reduce expressions of the negative symptoms.

This policy shall be disseminated to all faculty, staff, students, and administrators.