

UNIVERSITY OF DAYTON
SEXUAL HARASSMENT POLICY

The University of Dayton prohibits sexual harassment. Persons found to have engaged in harassment will be subject to disciplinary action including suspension, expulsion or termination.

The following statement explains the University's prohibition of any form of sexual harassment, alerts members of the community to the nature of sexual harassment and the seriousness with which it will be judged and informs members of the University community of the means available to them for bringing forward a complaint and the procedures the University has established for resolving such complaints. This policy statement is divided into two principal parts: the first describes the University's general prohibition of sexual harassment; the second details a special internal grievance procedure which may be used to resolve complaints of sexual harassment when at least one party to a complaint is a University employee. While the prohibition of sexual harassment applies to all members of the University community, if the incident involves only students, none acting in the capacity of an employee, such situations are to be resolved in accordance with the disciplinary procedures found in the Student Handbook.

I. THE PROHIBITION OF SEXUAL HARASSMENT: DEFINITION AND SCOPE OF SEXUAL HARASSMENT, ITS REPORTING AND SANCTIONS FOR HARASSMENT

A. DEFINITION OF SEXUAL HARASSMENT

Sexual harassment can be verbal, visual or physical. It can be overt, as when a professor suggests that a student could get a higher grade or when a supervisor offers an employee a greater pay increase in return for submission to sexual advances. The suggestion or advance need not be direct or explicit--it can be inferred from the conduct, circumstances and relationship of the individuals involved. Sexual harassment can also consist of persistent, unwanted attempts to change a professional or educational relationship to a personal one. It can range from abusive remarks about individual persons or classes of people to serious criminal abuses such as assault and rape. The victim of sexual harassment can be female or male.

Although no exhaustive listing of behaviors that could constitute sexual harassment is possible, some examples include: unwelcome and repeated flirtations and sexual advances; repeated sexually oriented teasing or joking; verbal abuse of a sexual nature; graphic commentary about an individual's body, sexual prowess, sexual deficiencies, or sexual preference; derogatory or demeaning comments about women or men in general whether sexual or not; leering, whistling, touching, pinching, or brushing against another's body; offensive or crude language; displaying objects or pictures which are sexual in nature and that create hostile or offensive working or living environments. All such conduct is threatening and coercive and creates an atmosphere that is not conducive to teaching, learning and working.

The University adopts the three tests developed in civil law to determine whether a behavior or series of behaviors constitutes sexual harassment:

1. The behavior has the purpose or effect of (a) creating an intimidating, hostile, or offensive environment, or (b) substantially interfering with an individual's work, academic performance, or status; or

2. Submission to such behavior is made either explicitly or implicitly a term or condition of a person's employment or education; or

3. Submission to or rejection of such behavior is used as the basis for academic or employment decisions affecting the person.

For an action to constitute harassment, a complainant must demonstrate that a least one of these tests is met.

B. REPORTING INCIDENTS OF SEXUAL HARASSMENT, THE PROHIBITION OF RETALIATION, CONFIDENTIALITY, AND PROTECTION OF THE PARTIES

1. HOW TO REPORT AN INCIDENT OF SEXUAL HARASSMENT

Members of the University community are encouraged to report all incidents of sexual harassment when they occur so that they may be dealt with in a timely manner. There are some avenues for reporting an incident of sexual harassment depending on its nature and the persons involved. As described below, any complaint may be brought to a University Grievance Officer. Non-faculty employees may also consider reporting matters to their supervisor, the director of their division or their divisional Vice President. Likewise, they may consult with a member of the administrative staff of the Human Resources Office, the Director of Affirmative Action/Employee Development, or a member of the University's Legal Affairs Office. In situations involving students and/or members of the faculty, parties may contact the appropriate Department Chair, an academic administrator in the Office of the Dean or the Office of the Provost, a member of the administrative staff or Residence Life or another office in the division of Student Development, or one of the Campus Ministers. Each of these persons is able to indicate the appropriate way to report a complaint of sexual harassment and offices to which reports can be made follows the conclusion of this policy statement.

Members of the administration who learn of charges of sexual harassment will ordinarily conduct or ask an appropriate office of the University to conduct an investigation of the charges. If, due to such factors as potential conflict of interest, the administration judges that an internal investigation would be insufficient and/or inappropriate, the University may seek the assistance of qualified persons outside the University to assist in the investigation of charges. If the results of this inquiry indicate that some form of discipline is called for, it is undertaken in the customary fashion as described in the University's handbooks and bargaining agreements.

A member of the University's community may experience sexual harassment from persons who are not University employees or students, such as from building contractors, equipment maintenance personnel, or conference guests. Such incidents should be reported to the administrative office of the University responsible for the presence of such persons on campus (e.g., the Director of Facilities Management for incidents involving third party building trades persons) so that appropriate action may be taken to end such behavior.

2. PROHIBITION OF RETALIATION

Retaliation against anyone making an informal or formal allegation is strictly forbidden and constitutes a separate incident of sexual harassment. The University wishes members of the University community to report an incident of retaliation whenever one occurs. A person who brings forward a complaint of sexual harassment, as anyone making a similarly serious charge, may encounter critical questioning and difficult interpersonal stresses. Corrective action can be undertaken only if persons who have experienced sexual harassment make a full and accurate report of such incidents. Thus, any occurrence of retaliation is always very serious and the person(s) responsible for it are liable for severe disciplinary action.

3. CONFIDENTIALITY AND THE PROTECTION OF THE PARTIES

When investigating a complaint of sexual harassment, the University will proceed in such a manner as to maintain confidentiality and to protect the identity of the parties involved. This care will be consistent with that exercised by the University in investigating the possibility that any serious offense has occurred. In the course of an investigation a number of persons may have to know of some aspects of the charges so that an inquiry can be successfully conducted.

In seeking to maintain confidentiality during the investigation of allegations of sexual harassment, the University desires to protect all parties to the dispute. On the one hand, it wishes to encourage the reporting and correction of incidents of harassment and minimize the exposure of those who have suffered harassment to publicity. On the other hand, the University recognizes that those charged with harassment are presumed innocent until found otherwise and that anyone charged with harassment must be told the nature of the charges, the name(s) of the person(s) bringing them and have an opportunity to defend themselves before any findings are made or sanctions imposed.

C. BASIS OF POLICY: RESPECT FOR THE DIGNITY OF PERSONS AND FAIR TREATMENT OF THE ACCUSED

The University's prohibition of sexual harassment is based both in the University's nature as well as in its legal obligations. In accordance with a Christian understanding of the dignity to be accorded to persons, the University condemns all forms of exploitation or other behaviors which fail to respect this fundamental dignity. Such actions diminish the community we seek to build. The coercion and abuse which are a part of sexual harassment are in direct conflict with our religious insight which sees in mutual and committed sexual relationships an image of God's love for His people, a love manifested in Christ's love for the church. Sexual harassment at a university is particularly reprehensible when it exploits the trust that is the basis of an educational relationship. Finally, sexual harassment is prohibited by state and federal law. Violation of this law has serious personal and institutional consequences.

Because an incident of sexual harassment is a serious matter, the University will carefully investigate all complaints properly brought to its attention. In its investigation, the University will seek to ensure that persons accused of sexual harassment are given a fair hearing and are able to defend themselves fully. Respect for fair process and adequate safeguards of the accused are also rooted in the University's religious and civil traditions.

At times the caution required in an investigation of a charge of sexual harassment may be in competition with the rapid resolution of complaints. Our traditions indicate, though, that this balancing of concerns is the most effective means we have for protecting the rights of all involved and thus, for furthering the common goal.

D. RELATED CONSIDERATIONS: SEXUAL HARASSMENT AND ACADEMIC FREEDOM; CONSENSUAL AMOROUS RELATIONSHIPS

1. ACADEMIC FREEDOM

The proper exercise of academic freedom by a member of the faculty is not restricted by the University's prohibition of sexual harassment. When members of the faculty lecture, lead discussions, show exhibits and the like on sexually related topics relevant to course material, they are not subject to censure arising from claims of sexual harassment, provided such classes are conducted in accordance with the norms of the discipline.

2. CONSENT AND HARASSMENT IN UNEQUAL RELATIONSHIPS

a. SUPERVISOR-SUPERVISEE AMOROUS RELATIONSHIPS:

Consenting romantic relationships between a supervisor and a person he or she supervises are discouraged and deemed very unwise. When a supervisor enters an amorous relationship with an employee she or he must realize that a significant institutional power differential exists. Therefore, if a charge of sexual harassment is subsequently lodged, it will be difficult for the supervisor to assert her or his innocence because the relationship was entered into by mutual consent.

b. FACULTY-STUDENT AMOROUS RELATIONSHIPS:

Amorous relationships that might be appropriate in other circumstances are inappropriate when they occur between a member of the faculty and any student for whom she or he has a professional responsibility. Such relationships frequently undermine the atmosphere of trust and objectivity on which the educational process depends. Codes of ethics of most professional associations forbid professional-client sexual relationships. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in giving praise or blame, grades, recommendations for further study and future employment, etc., greatly diminish the student's actual freedom of choice should the desire for an amorous relationship be included in addition to a professor's legitimate expectations. Even when no professional relationship currently exists between a student and a member of the faculty, faculty members should appreciate the constant possibility that they may be unexpectedly placed in a position of responsibility for the student's instruction or evaluation. Graduate assistants should give special heed to these cautions since at times their similarity in age and/or status may cause them to fail to appreciate that when serving as a teaching assistant they are acting as an extension of the faculty.

c. ADMINISTRATIVE STAFF-STUDENT AMOROUS RELATIONSHIPS:

A situation similar to that for faculty members holds for members of the administrative staff of the University whose responsibilities include the application or enforcement of policies which may effect a student's status at the University (e.g., award of financial aid, application of disciplinary regulations). All such administrators should recognize that an amorous relationship with a student for whom he or she currently has a professional responsibility is inappropriate. Even when no professional relationship currently exists between a student and a member of the administration, such persons should appreciate the constant possibility that they may be unexpectedly placed in a position of responsibility for the student or the student may incorrectly believe that due to the position one holds, one is able to affect the student's status at the University.

E. SANCTIONS

Sexual harassment is a serious offense. Thus, disciplinary action for those found to have engaged in harassment will be severe. For student employees such discipline could include expulsion; for employees, termination of employment. Discipline will be taken in accordance with that for serious offenses as specified in the University's Student Handbook, Personnel Handbooks, Faculty Handbook or collective bargaining agreements.

Conversely, it would be a serious act of misconduct to knowingly bring untrue charges of sexual harassment against an innocent party. If the conclusion of an administrative inquiry or grievance procedure determines that this has occurred, the person making the false charges will be subject to discipline in accordance with the usual University procedures.

