

OLD DOMINION UNIVERSITY
University Policies and Procedures

6320 - SEXUAL HARASSMENT POLICY

I. POLICY

A. Policy Statement and Responsibilities

1. Sexual harassment in any situation is reprehensible. It is the policy of Old Dominion University to provide students and employees with an environment for learning and working which is free of sexual harassment whether by members of the same sex or the opposite sex, which is prohibited by Title IX of the Education Amendments of 1972 and Title VII of the 1964 Civil Rights Act.
2. It is the responsibility of each member of university administrators and supervisors to assure that effective measures are taken to implement the procedures outlined in this policy.
3. It is a violation of this policy for any member of the university community to seek gain, advancement, or consideration in return for sexual favors, or to make an intentionally false accusation of sexual harassment.
4. The University's EO/AA director must be advised of all complaints or reported incidents of sexual harassment. The Office of EO/AA will monitor repeated complaints or reports within the same unit or against the same individual, where appropriately identified, to assure that such allegations are fairly and properly handled.
5. Any person who has been accused of sexual harassment, pursuant to the terms of this policy, who retaliates against his/her accuser in any manner, shall be charged with a violation of this policy which shall be treated as an independent and separate act of sexual harassment.
6. Any member of the university community who is found in violation of this policy will be subject to appropriate sanctions, which may include discharge, expulsion or debarment.

B. Policy Definitions

1. “Work” for the purposes of this policy, means employment-related activities carried out by university employees and university sponsored activities carried out by volunteers.
2. “Member of the university community,” for purposes of this policy, means student or employee, or an alumnus, alumna, or volunteer involved in any university sponsored activity.

C. Definition of Sexual Harassment

Sexual harassment is defined as unwelcomed and unsolicited conduct of a sexual nature, physical or verbal, by a member of the university community of the opposite sex, or the same sex in an official university position when:

1. Another of the university community member’s submission to such conduct is made explicitly or implicitly a term or condition of the employee’s work performance or the student’s academic performance;
2. Another of the university community member’s submission to or rejection of such conduct is used as a basis for an employment decision or an academic decision; or
3. Such conduct is known or should have been known to interfere with such person’s work or academic performance, by creating an intimidating, hostile, or offensive working or educational environment.

A variety of sexual conduct directed at another university community member may be considered sexual harassment, including, but not limited to:

- * offensive sexual: innuendos, advances, propositions, threats, jokes, suggestive comments;
- * graphics or degrading comments of a sexual nature about a person’s appearance, whistling in a suggestive manner, obscene gestures;
- * uninvited physical contact or touching such as pinching or intentional brushing against the body;
- * solicitation of sexual favors through implicit or explicit promises of rewards or threats of punishment.

D. Power Differential, Consent and Sexual Harassment

Consenting romantic and sexual relationships between faculty and student, or between supervisor and employee, while not expressly forbidden, are generally deemed very unwise. A faculty member who enters into a sexual relationship with a student (or a supervisor with an employee) where a professional power differential exists, must realize that, if a charge of sexual harassment is subsequently lodged, it will be exceedingly difficult to prove a defense on grounds of mutual consent.

If conduct of a sexual nature has occurred or is occurring in an apparently consensual romantic or sexual relationship, and, if a complaint of sexual harassment regarding such conduct is filed by the student against the faculty member or the teaching/lab assistant, or by the employee against the university official, then sexual harassment shall be rebuttably presumed in such cases when:

1. The relationship is between a faculty member or teaching/lab assistant and a student and:
 - (a) the faculty member or teaching/lab assistant is in a position to determine the student's grade or otherwise affect the student's academic performance or advancement; and
 - (b) the relationship began after the faculty member or teaching assistant was in such a position, or
2. The relationship is between an employee and a university official who is in a position to supervise the employee or otherwise influence the conditions of the employee's work and the relationship began after the supervisor was in such a position.

Sexual harassment is presumed under such circumstances because the power differential existing between the faculty member and student or the supervisor and employee may restrict the student or employee's freedom to choose to enter into the relationship. In order to rebut the presumption of sexual harassment, the faculty member, teaching assistant or other university employee or official who is charged with sexual harassment as a result of conduct occurring in a consensual relationship as described above must be prepared to prove, by a preponderance of the evidence, that the individual claiming sexual harassment entered into the relationship freely and voluntarily.

II. COMMITTEE ON SEXUAL HARASSMENT

The President will appoint a Committee on Sexual Harassment consisting of individuals with professional training and/or experience such as would qualify them to assist victims of sexual harassment and those accused of violating this policy. The chair of the committee shall be the university's director of equal opportunity and affirmative action ("the EO/AA director"). The other members shall be as follows: two faculty members and staff member at large, a staff member from Counseling Services, a staff member from Student Health Services, and a staff member from the Women's Center. Names of the members of the committee shall be publicized by the university.

III. PROCEDURES FOR ENFORCEMENT OF THE SEXUAL HARASSMENT POLICY

Sexual harassment complaints can be made according to the procedures outlined below.

Members of the Sexual Harassment Committee shall assist members of the university community who are the object of sexual harassment, or who are accused of violating this policy. Committee members may also assist the EO/AA director in the informal mediation process by their direct involvement.

All student complaints of sexual harassment must be filed within two years from the date the alleged harassment occurred. Complaints by other members of the university community must be made within 120 days from the date the alleged harassment occurred.

A. STEP 1

1. Any individual in the university community who believes she or he has been the victim of sexual harassment, as defined in this policy should contact the EO/AA director or a member of the University Committee on Sexual Harassment.
2. The complainant may elect an informal process to mediate the complaint. This process provides an opportunity for the complainant and the accused to resolve the problem in an informal manner, without the necessity of disciplinary action or of the more formal procedures for processing a complaint.
3. The complainant may elect to file a formal complaint. The complainant shall explain, in writing, the nature of the harassment and indicate what remedy she or he seeks. The EO/AA director shall forward a copy of the complaint to the accused member of the university community and the appropriate supervisor/administrator, with a copy of this policy and advise him or her that an investigation of charges will be conducted.

4. The supervisor/administrator, working with the EO/AA Office, shall conduct a prompt investigation of the complaint. During the investigation, the individual accused of sexual harassment must be provided with an opportunity to respond, either orally or in writing, to the complaint.
5. In determining whether the alleged conduct constitutes sexual harassment, the supervisor/administrator will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual conduct and the context in which the conduct occurred.
6. A resolution by agreement of the parties may include the imposition of a sanction upon the accused individual which the accused individual agrees to accept as a sanction.
7. If the proposed resolution is not accepted by the accused individual, the supervisor/administrator may impose a sanction.
8. The EO/AA director may modify a sanction or the terms of an agreement. The director's approval is required on any final agreement.
9. The accuser's right for redress under this policy shall terminate upon the imposition of a sanction.
10. If an investigation of a complaint exceeds thirty (30) days from the date of receipt by the supervisor/administrator, the EO/AA director shall notify the parties in writing of the progressive status of the investigation and the proposed extension of time needed for completion of the investigation.
11. Other related issues not specifically identified in the complaint may be brought to the attention of the appropriate administrator by the EO/AA director.

B. STEP II

1. Upon conclusion of the administrative review, if the complaint is unresolved and the complainant desires to proceed with the charge, the record of the complaint shall be provided to the chair of the appropriate administrative tribunal listed below.
2. Members of the Committee on Sexual Harassment may advise the complainant and the accused by clarifying and explaining procedures, and promoting an equitable resolution for all parties.

3. The imposition of sanctions shall occur in accordance with applicable University disciplinary and sanction procedures.

C. University Complaint Resolution Procedures

1. A complaint of sexual harassment may be pursued in accordance with the appropriate university complaint resolution procedure:

<u>Complainant</u>	<u>Procedure</u>	<u>Contact</u>
Student	University's Discrimination Complaint Procedure or Student Conduct Committee	EO/AA Hearing Officer
Faculty	Faculty Grievance Procedure or University's Discrimination Complaint Procedure	Chair of the Committee EO/AA
Classified Employee	University's Discrimination Complaint Procedure or State Employee's Discrimination Complaint Procedure or State Grievance Procedure	EO/AA Human Resources
Wage Employee	University's Discrimination Complaint Procedure or State Employee's Discrimination Complaint Procedure	EO/AA Human Resources
Administrator Alumnus or Volunteer	University's Discrimination Complaint Procedure	EO/AA

2. The complainant shall not be entitled to more than one of the procedures for complaint resolution outlined in III.C.1.
3. The sanctions that may be imposed by the appropriate tribunal shall include but not limited to:

- a. For faculty, administrators, and staff censure/reprimand, demotion, suspension without pay or discharge.
- b. For students - probation, suspension or expulsion.
- c. For other members of the University community reprimand, temporary or permanent debarment from university functions, activities and memberships.

VI. Sexual Harassment Committee

Ruth C. Jones, Director, Equal Opportunity/Affirmative Action
Lorraine Lees, Associate Professor of History
Lenora Thompson, Staff Psychologist, Counseling Center
Julie Dodd, Director, Women's Center.
Roger F. Strand, Director, Teacher Education Services
Glenda Humphreys, Director, Human Resources
Carole Kiehl, Bibliographic Librarian

Responsibility: Equal Opportunity Director

Authorization: James V. Koch, President

Date: December 1, 1988; Amended June 30, 1995; Amended May 1, 1997

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