Policy #6320
SEXUAL HARASSMENT POLICY

Responsible Oversight Executive: Assistant Vice President, Office of Institutional Equity and Diversity/University Counsel
Date of Current Revision or Creation: September 30, 2011

A. PURPOSE

The purpose of this policy is to foster an environment at Old Dominion University free from sexual harassment.

B. AUTHORITY

Title VII of the Civil Rights Act of 1964, as amended
Title IX of the Education Amendments of 1972
Equal Employment Opportunity Commission
Virginia Code Section 23-9.2:3, as amended, grants authority to the Board of Visitors to establish rules and regulations for the institution. Section 6.01(a)(6) of the Board of Visitors Bylaws grants authority to the President to implement the policies and procedures of the Board relating to University operations.

Commonwealth’s Department of Human Resource Management Policy 2.30 – Workplace Harassment

C. DEFINITIONS

Consensual – Two or more individuals (including spouses and partners) involved by mutual consent in a romantic, physically intimate, and/or sexual relationship.

Debarment – An action by the University or other agency of the Commonwealth of Virginia that prohibits a vendor/contractor from contracting with the Commonwealth.

Sexual Harassment - Unwelcome and unsolicited conduct of a sexual nature, physical or verbal, by a member of the University community when: (a) 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; (b) submission to or rejection of such conduct is used as a basis for an employment decision or an academic decision affecting the individual; or (c) such conduct has the purpose or effect of interfering with such person's work or academic performance or
participation in extracurricular activities 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:

a. Comments of a sexual nature including sexually explicit statements, questions, jokes or anecdotes;
b. Remarks of a sexual nature about a person’s body or clothing, whistling in a suggestive manner, obscene gestures;
c. Uninvited physical contact or touching such as pinching or intentional brushing against the body; and
d. Solicitation of sexual favors through implicit or explicit promises of workplace or academic rewards or threats of punishment.

Work - Employment-related activities carried out by University employees and University-sponsored activities carried out by volunteers.

D. SCOPE

This policy applies to all employees, students, volunteers, employees of affiliated organizations, and visitors to the institution. Employees include all staff, administrators, faculty, full- or part-time, and classified or non-classified persons who are paid by the University. Students include all persons attending classes whether enrolled or not enrolled. Affiliated organizations are separate entities that exist for the benefit of the University and include the Foundations, the Community Development Corporation, and the Alumni Association. Visitors include vendors and their employees, parents of students, volunteers, guests, uninvited guests and all other persons located on property, owned, leased, or otherwise controlled by the University.

E. POLICY STATEMENT

It is the policy of Old Dominion University to provide students and employees with an environment for learning and working that is free of sexual harassment whether by members of the same sex or the opposite sex. University administrators and supervisors are responsible for ensuring that effective measures are taken to implement the procedures outlined in this policy. 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.

F. PROCEDURES

1. The Assistant Vice President for Institutional Equity and Diversity ("Assistant Vice President") must be advised of all complaints or reported incidents of sexual harassment. The Office of Institutional Equity and Diversity will monitor repeated complaints or reports within the same unit or against the same individual.

2. Responsibilities of Individuals Experiencing Harassment

   a. 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 Office of Institutional Equity and Diversity ("OIED") or a member of the University’s Committee on Sexual Harassment.
b. All student complaints of sexual harassment must be made within two years from the date the alleged harassment occurred.

c. Complaints by other members of the University community must be made within 120 days from the date the alleged harassment occurred.

3. Responsibilities of Administrators, Supervisors, and Faculty

a. University administrators, supervisors, faculty members and others who are performing instructional or academic advising duties are responsible for devising and adopting appropriate practices for maintaining a working and learning environment free of sexual harassment.

b. University administrators, supervisors, faculty members and others who are performing instructional or academic advising duties have an added responsibility of reporting any claim or concern of sexual harassment to the OIED.

c. University administrators, supervisors, faculty members and others in supervisory positions have the obligation to be knowledgeable of the policy and respond to incidents and claims of harassment in their areas of supervisory responsibility. Failure to perform a supervisory responsibility may result in disciplinary action under the appropriate policy.

4. The OIED shall summarily dismiss a complaint if it is determined that the complaint fails to state a claim of sexual harassment or retaliation or if the Sexual Harassment Policy does not pertain to the claim. This dismissal is final and cannot be appealed.

5. Informal Complaint Procedure

a. The accuser may elect an informal process to mediate the complaint through OIED. This process provides an opportunity for the accuser 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.

b. Upon conclusion of the informal review, if the complaint is unresolved and the accuser desires to proceed with the charge, the record of the complaint shall be provided to the appropriate administrative designee listed below.

c. Although an accuser may elect the informal process, the OIED may determine that because of the seriousness of the allegations the informal process is inappropriate and instead inform the accuser that the formal complaint procedure will be utilized.

6. Formal Complaint Procedure

The accuser may elect to submit a formal complaint of sexual harassment. If the accuser chooses the formal complaint procedure, he or she should contact the OIED. OIED staff will advise the accuser of the options for addressing the complaint. The accuser may choose only one of the available options from the list below.
If the accuser chooses the University’s Sexual Harassment Formal Complaint Procedure, the following steps should be taken:

a. The accuser shall submit to the OIED, in writing, a summary of the nature of the harassment and indicate what remedy is being sought. The Assistant Vice President shall forward a summary of the charges to the appropriate supervisor/administrator, with a copy of this policy, and advise him or her that an investigation of charges will be conducted.

b. The supervisor/administrator is expected to collaborate with the OIED, which will assign an investigator to conduct a prompt investigation of the complaint. During the investigation, the individual accused of sexual harassment will be provided an opportunity to respond, either orally or in writing, to the complaint. Failure to cooperate with the investigation by the accused may be grounds for disciplinary action.

c. In determining whether the alleged conduct constitutes sexual harassment, the investigator will review the record as a whole and consider the totality of the circumstances, such as the nature of the alleged sexual conduct and the context in which the conduct occurred.

d. Upon the completion of the investigation, the investigator shall submit the findings and recommendations to the Assistant Vice President.

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<tr>
<th>ACCUSER</th>
<th>OPTIONS</th>
<th>CONTACT</th>
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<td>Student</td>
<td>University's Sexual Harassment Policy's Formal Complaint Procedure</td>
<td>Office of Institutional Equity and Diversity (&quot;OIED&quot;)</td>
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<tr>
<td>Faculty</td>
<td>University's Sexual Harassment Policy's Formal Complaint Procedure</td>
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<td>Faculty Grievance Procedure</td>
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<td>Classified Employee</td>
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<td>Commonwealth’s Department of Human Resource Management’s Discrimination Complaint Procedures</td>
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<td>Wage Employee</td>
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<td>Administrator, Alumnus, Visitor or Volunteer</td>
<td>University's Sexual Harassment Policy's Formal Complaint Procedure</td>
<td>OIED</td>
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e. If the OIED finds that no violation of the Sexual Harassment Policy has occurred, the Assistant Vice President will notify the parties of the results. The Assistant Vice President will also notify the appropriate administrator.

f. If the OIED finds that a violation of the Sexual Harassment Policy has occurred, the Assistant Vice President will:
   i. Notify the parties of the results, to the extent consistent with confidentiality.
   ii. Forward a report to the appropriate administrator.
   iii. Direct that prompt remedial action be taken to correct the situation.

g. The accuser's right for redress under this policy shall terminate after notification that the case has been closed.

h. The investigation of a complaint will be concluded as soon as possible after receipt of the written complaint. If an investigation exceeds 30 days, the accuser, accused individual, and the administrator will be provided an update on the progress of the investigation, including a proposed completion date.

i. Other related issues not specifically identified in the complaint may be brought to the attention of the appropriate administrator by the Assistant Vice President.

7. **Disciplinary Action**

   a. Any member of the University community who is found in violation of this policy will be subject to appropriate disciplinary action, which may include discharge, expulsion or debarment.

   b. The imposition of a sanction shall occur in accordance with applicable University disciplinary and sanction procedures.

      The sanctions that may be imposed shall include but are not limited to:

      i. For faculty, administrators, and staff - censure/reprimand, demotion, suspension without pay, or discharge.
      ii. For students - probation, suspension, or expulsion.
      iii. For other members of the University community - reprimand, temporary or permanent debarment.

8. **Retaliation**

   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.

9. **Confidentiality**

   Old Dominion University will endeavor to maintain confidentiality to the extent permitted by law. Where the accuser's desire to maintain anonymity may constrain attempts to establish facts and eliminate the potential harassment, Old Dominion University will attempt to find the right balance between the accuser's desire for confidentiality with the
The responsibility of Old Dominion University to provide an environment free of sexual harassment. Old Dominion University may take action beyond that requested by the accuser consistent with the purpose of this policy.

10. **Consensual Relationships**

Employees, whether faculty or staff, shall not engage in a consensual relationship with students when the employee has a “position of authority” with respect to the student in such matters as teaching or otherwise evaluating, supervising, advising, or coaching a student as part of a school program or employment situation. Likewise, a supervisor and an employee shall not engage in a consensual relationship. The University views such relationships as a conflict of interest. Employees have a duty to comply with the University’s Conflicts of Interests policy.

A faculty member who enters into a consensual relationship with a student or a supervisor who enters into a consensual relationship with an employee where a “position of authority” exists should be aware 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 relationship, and, if a complaint of sexual harassment regarding such conduct is filed by the student against the faculty member or the graduate assistant, or by the employee against the University official, then sexual harassment shall be presumed in such cases when:

a. The relationship is between a faculty member or graduate assistant and a student and:

   ii. the faculty member or graduate assistant is in a position to determine the student's grade or otherwise affect the student's academic performance or advancement; and
   iii. the relationship began after the faculty member or teaching assistant was in such a position.

b. 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.

11. **Sexual Harassment Committee**

The President will appoint a Committee on Sexual Harassment consisting of individuals with professional training and/or experience that 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 Assistant Vice President for Institutional Equity and Diversity. The other members shall be as follows: two faculty members and a 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. A listing of current members is available from the Office of Institutional Equity and Diversity.

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. This assistance includes advising the accuser and the accused by clarifying and explaining procedures and promoting an equitable resolution for all parties. Committee members may also assist the Assistant Vice President in the informal mediation process.
G. RESPONSIBLE OFFICER

Assistant Vice President, Office of Institutional Equity and Diversity

H. RELATED INFORMATION

Commonwealth’s Department of Human Resource Management Policy 2.05, Equal Employment Opportunity

Commonwealth’s Department of Human Resources Management Policy 1.60, Standards of Conduct

Old Dominion University Board of Visitors Policy 1001 – The Mission of the University

Old Dominion University Board of Visitors Policy 1002 - Major Goals of the University

Old Dominion University Board of Visitors Policy 1530 - Student Disciplinary Policies and Procedures

Old Dominion University Policy 1002 - Code of Ethics

University Policy 4600 - Sexual Assault Policy

University Policy 6310 - Discrimination Complaint Policy and Procedures

Old Dominion University Disruptive Behavior Policy for Faculty and Faculty Administrators

Old Dominion University Grievance Procedure for Administrative and Professional Faculty
Policy 6320 – Sexual Harassment Policy

POLICY HISTORY
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Policy Formulation Committee (PFC) & Responsible Officer Approval to Proceed:

/s/ ReNeé S. Dunman ___________________ September 19, 2011
Responsible Officer Signature    Date

Policy Review Committee (PRC) Approval to Proceed:

/s/ Donna W. Meeks ___________________ September 12, 2011
Policy Review Committee (PRC),    Date
Chair Signature

Executive Policy Review Committee (EPRC) Approval to Proceed:

/s/ James D. Wright ___________________ September 22, 2011
Responsible Oversight Executive Signature    Date

University Counsel Approval to Proceed:

/s/ James D. Wright ___________________ September 22, 2011
University Counsel    Date

Presidential Approval:

/s/ John R. Broderick ___________________ September 30, 2011
President    Date

Policy Revision Dates:   December 1, 1988; June 30, 1995; May 1, 1997;
                          September 30, 2011

Scheduled Review Date:   September 29, 2016