

Florida State University Sexual Harassment Policy

Effective July 1, 1998 as amended December 31, 2002 and January 6, 2004

- (1) **POLICY STATEMENT.** Sexual harassment is a form of discrimination based on a person's gender. Sexual harassment is contrary to the University's values and moral standards, which recognize the dignity and worth of each person, as well as a violation of federal and state laws and University rules and policies. Sexual harassment cannot and will not be tolerated by The Florida State University, whether by faculty, students, or staff; or by others while on property owned by or under the control of the University.
- (2) **OFFICE OF AUDIT SERVICES.** The Office of Audit Services (OAS) is charged with receiving and investigating sexual harassment complaints as set forth in this policy and shall maintain the records pertaining thereto. Within the OAS, the Coordinator of Sexual Harassment Resolutions has primary responsibility for leading these investigations.
- (3) **DEFINITION.** Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature directed at an employee or student by another when:
 - (a) submission to such conduct is made either explicitly or implicitly a term or condition of employment, academic status, receipt of University services, participation in University activities and programs, or affects the measure of a student's academic performance; or,
 - (b) submission to or rejection of such conduct is used as the basis for a decision affecting employment, academic status, receipt of services, participation in University activities and programs, or the measure of a student's academic performance; or,
 - (c) such conduct has the purpose or effect of unreasonably interfering with employment opportunities, work or academic performance or creating an intimidating, hostile, or offensive work or educational environment.
- (4) **EXAMPLES OF SEXUAL HARASSMENT.** Incidents of sexual harassment may involve persons of different or the same gender. They may involve persons having equal or unequal power, authority or influence. Though romantic and sexual relationships between persons of unequal power do not necessarily constitute sexual harassment, there is an inherent conflict of interest between making sexual overtures and exercising supervisory, educational, or other institutional authority. Decisions affecting an employee's job responsibilities, promotion, pay, benefits, or other terms or conditions of employment, or a student's grades, academic progress, evaluation, student status, recommendations, references, referrals, and opportunities for further study, employment or career advancement, must be made solely on the basis of merit. Examples of sexual harassment include, but are not limited to, the following, when they occur within the circumstances described in Section (3) above:
 - (a) use of gender-based verbal or written language, including electronic communication, offensive or degrading to a person of that gender, whether or not the content is sexual;
 - (b) inappropriate display of gender-based pictorial images offensive or degrading to a person of that gender, including but not limited to sexual posters, photographs, cartoons, drawings, or other displays of sexually suggestive objects or pictures;
 - (c) use of inappropriate gestures or body language of a sexual nature, including leering or staring at another;

- (d) unwelcome requests or demands for sexual favors or unwelcome sexual advances;
 - (e) inappropriate nonconsensual touching of another's body, including but not limited to kissing, pinching, groping, fondling, or blocking normal movement; or
 - (f) sexual battery. (Note: some acts of sexual harassment may also constitute violations of criminal law, e.g., sexual battery, indecent exposure, sexual abuse, etc. In such instances, please refer to the FSU Sexual Battery Policy.)
- (5) **DISCIPLINARY AND OTHER ACTIONS.** Sexual harassment is prohibited by the Florida State University. The University will take appropriate action against any person found to be in violation of this policy.
(Note: a person who has sexually harassed another or retaliated against another may also be subject to civil or criminal liability under state or federal law.)
- (a) Disciplinary Actions. Any employee who has sexually harassed another employee or a student, retaliated against such person for bringing a complaint of sexual harassment, or otherwise violated this policy shall be guilty of misconduct and subject to disciplinary action up to and including dismissal, in accordance with applicable law, rules, policies, and/or collective bargaining agreements. In addition, any student who has sexually harassed another student or an employee, retaliated against such person for bringing a complaint of sexual harassment, or otherwise violated this policy may be subject to disciplinary action up to and including expulsion, pursuant to the Student Code of Conduct. The term "employee" includes all persons employed by the University including faculty and graduate teaching assistants.
 - (b) Other Actions. The University will take such corrective action against any non-students or non-employees found to have violated this policy, as may be appropriate under the circumstances.
- (6) **RETALIATION.** Retaliation against one who in good faith brings a complaint of sexual harassment or who in good faith participates in the investigation of a sexual harassment complaint is prohibited and shall be a violation of this policy and shall constitute misconduct subject to disciplinary or other action as described in Section (5) above.
- (7) **FILING OF FALSE SEXUAL HARASSMENT COMPLAINT.** Knowingly filing a false sexual harassment complaint is prohibited and shall be a violation of this policy and shall constitute misconduct subject to disciplinary action as described in Section (5) above. A complaint that is investigated and deemed unsubstantiated is not necessarily a false complaint.
- (8) **REPORTING REQUIRED.** Any student or employee who has witnessed what is perceived to be a violation of this policy should promptly report that conduct to the OAS, who then will proceed as appropriate. Any supervisor¹ who has witnessed or becomes aware of the alleged occurrence of sexual harassment by, or who receives a complaint of sexual harassment involving a person within that supervisor's purview is required to take prompt corrective action as appropriate, and to report the matter, if possible, within two work days to the OAS. Failure of the supervisor to take appropriate corrective action or to report the incident shall be a violation of this policy and shall constitute misconduct subject to disciplinary action as described in Section (5) above.

¹ For purposes of this policy, the term "supervisor" shall be deemed to include vice presidents, deans, directors, department chairs, unit heads, supervisors, principal investigators, etc.; faculty when acting in a supervisory capacity or within the faculty-student role; and graduate research assistants, teaching assistants, lab technicians, residence hall coordinators, etc.

(9) **COMPLAINT PROCEDURE.**

(a) Filing of Complaint. Any student or employee who believes that he or she is a victim of sexual harassment in violation of this policy is encouraged to promptly notify the alleged perpetrator (the "respondent") verbally or in writing that his or her conduct is unwelcome. Such action may cause the unwelcome conduct to cease as well as help to maintain an environment free from sexual harassment. Assistance and support is available from the Office of the Dean of the Faculties (for faculty), the Office of the Dean of Students (for students), or the Department of Human Resources (for non-faculty employees). Regardless of having given notice to the respondent, the student or employee (the "complainant") may initiate a complaint under this policy by promptly bringing the matter to the attention, preferably in writing by completing the complaint form, of any of the following:

1. The Office of Audit Services;
2. The Office of the Dean of the Faculties;
3. The Office of the Dean of Students;
4. The Department of Human Resources;
5. A student's school or college dean; or,
6. An employee's immediate or next immediate supervisor.

All complaints should be filed in a timely manner. Complaints filed for acts that occurred more than one year from the filing date of the complaint will generally not be investigated unless appropriate in the judgment of the OAS.

(b) Preparing a Complaint. The complainant should provide the following information to facilitate a prompt and thorough investigation:

1. The names, addresses, telephone numbers, administrative unit, and position or status of the complainant and the respondent, if known;
2. Specific acts alleged, including dates, times, and locations;
3. Names, addresses, and phone numbers of potential witnesses;
4. The effect the alleged acts have had on the complainant;
5. Actions the complainant may have taken to attempt to stop the harassment;
6. Complainant's suggestion of proposed action to address or resolve the harassment; and
7. Other information the complainant believes is relevant.

(c) Transmitting a Complaint to the OAS. The complaint shall immediately be forwarded to the OAS. If the complaint is verbal, the person receiving the complaint shall make a written summary thereof on the complaint form and request the complainant to sign it.

(d) Reviewing a Complaint. The OAS will make an initial determination whether the alleged perpetrator is a student or employee. If the alleged perpetrator is identified, as one who is not a student or employee, then the OAS will refer the matter to the Office of the General Counsel for appropriate action. If the OAS determines that the alleged perpetrator is a student or employee, the OAS will review the complaint to determine whether the acts complained of, as stated by the complainant, constitute a violation of this policy, and if not, the complainant will be so informed. If the OAS determines the alleged acts may constitute a violation of this policy, the investigation will proceed as set forth in Section (10) below, unless the matter is satisfactorily resolved as in the following paragraph (e).

- (e) Notifying the Respondent and Supervisor; Informally Resolving a Complaint; Withdrawing a Complaint. The OAS will notify the respondent and his or her appropriate supervisor of the allegations contained in the complaint. In an effort to informally resolve the complaint, the OAS will elicit from the complainant, proposed actions the complainant believes are necessary to address or resolve the alleged harassment. The OAS will discuss these proposed actions with the respondent and with appropriate levels of management. The respective parties will also have the opportunity to propose other means of resolution. Thus, if the matter can be resolved informally, or if the complainant chooses to withdraw the complaint, the complainant will sign a statement outlining the informal resolution and releasing the University from taking any further action. If the matter is not resolved at this stage, the complaint will be investigated as set forth in Section (10) below.

(10) **INVESTIGATION.** The following procedures will govern all investigations of complaints alleging violations of this policy:

- (a) The OAS will thoroughly investigate complaints alleging violations of this policy with the assistance, as needed, of the following: the Office of the Dean of the Faculties, the Department of Human Resources, and/or the respondent's supervisor(s), except in cases where the respondent is a student. If the respondent is a student, the OAS will forward a copy of the complaint and any associated materials to the Office of the Dean of Students, which will, if appropriate, adjudicate the matter under the Code of Student Conduct. The Dean of Students shall notify the OAS of the outcome.
- (b) The investigation should include interviewing the complainant and witnesses suggested by the complainant who may have knowledge of the alleged offending behavior. Employees and students shall fully cooperate in the investigation.
- (c) The respondent will be given an opportunity to respond to the complaint verbally and in writing and may suggest additional witnesses.
- (d) The investigation should also include interviewing such other witnesses as are deemed appropriate under the circumstances.
- (e) The investigation should include a review of any files and records of previous sexual harassment complaints against the respondent and any other documents deemed relevant.
- (f) All witnesses who provide relevant information should submit a written, signed statement attesting to their knowledge of the subject circumstances.
- (g) Confidentiality of the investigation will be maintained to the extent allowed by law.

(11) **REPORT OF OAS.** The OAS will prepare a report setting forth its findings and a determination concerning violation of this policy. The report should be completed within 120 days following the filing of the complaint, where feasible, and will be submitted to the appropriate vice president of the respondent's unit or department.

(12) **SUBSEQUENT ACTION.** The vice president will make a determination upon review of the OAS's report, consultation with the Dean of the Faculties or the Director of Human Resources, and consideration of any other relevant information, including aggravating or mitigating circumstances, whether disciplinary action is warranted under the circumstances. If the vice president determines that disciplinary action should be initiated, then, consistent with due process requirements, the respondent will be notified in accordance with applicable Florida Board of Governors and University rules, regulations, and policies and collective bargaining agreements, and appropriate disciplinary procedures as provided for therein will be followed. Regardless of whether formal disciplinary action is initiated, the University may take such informal corrective

action as may be appropriate under the circumstances. The vice president will notify the OAS of the outcome. The OAS will notify the complainant of the results of the investigation and subsequent disciplinary or other corrective action taken, if any, to the extent allowed by law. The OAS will notify the respondent of the results of the investigation when no policy violation is found and no further action planned.

- (13) **DISTRIBUTION OF POLICY.** Copies of this policy are available to all current and future employees and students at The Florida State University in hard copy (policy brochures, student handbooks, The Bulletin, etc.) electronic format (www.auditservices.fsu.edu), and will be made available in alternative format upon request. Any person involved in the process under this policy needing accommodations for a disability should notify the OAS.
- (14) **APPLICABILITY.** This policy supersedes any and all prior University policies regarding complaints of alleged acts of sexual harassment.
- (15) **EFFECTIVE DATE.** The effective date of this policy is July 1, 1998, as amended December 31, 2002, and January 6, 2004.
- (16) **WHERE TO GO FOR HELP.** *Any member of the university community* may report sexual harassment to:

The Office of Audit Services
407 Westcott Building
(850) 644-6031

Or by calling:

The Florida State University
Sexual Harassment Hotline
(850) 644-9013

Staff is also available in the following offices to assist victims of sexual harassment.

A student victim may report to:

Dean of Students
4322 University Center A
(850) 644-2428

A faculty victim may report to:

Dean of the Faculties
314 Westcott Building
(850) 644-6876

An A&P, USPS or OPS victim may report to:

Human Resources
6219 University Center A
(850) 645-6519