

APPENDIX A

**HOWARD UNIVERSITY
ORGANIZATIONAL CHART**

SEXUAL HARASSMENT POLICY AND PROCEDURES

APPENDIX B

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**HOWARD UNIVERSITY
SEXUAL HARASSMENT POLICY AND PROCEDURES**
Approved by the Board of Trustees on September 23, 1989

I. Policy Statement

Howard University reaffirms its commitment to providing equal opportunity in education and employment. To fulfill this commitment, the University must maintain an environment in which individuals are judged and rewarded solely on the basis of relevant factors such as ability, prior experience and accomplishments, effort, and performance. The environment also must be one in which all employees and students can pursue their work free from coercion, intimidation, and exploitation. Sexual harassment is a form of discriminatory misconduct that harms the environment the University seeks to maintain.

Sexual harassment, moreover, violates Federal and District of Columbia laws, including Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the District of Columbia Human Rights Act of 1977.

Therefore, conduct on the part of any member of the University community which inappropriately introduces sexuality into a teaching, learning, or working relationship shall not be tolerated.³ Sexual harassment, as defined below, or failure to carry out responsibilities specified below may result in disciplinary action, up to and including separation from the University.⁴

The University also will not tolerate conduct by a non-employee which sexually harasses any member of the University community on University premises or at any other location where the non-employee and the member of the University community are together because of assigned or University-sanctioned activities. Independent contractors, vendors, and others who do business with the University or on University premises are expected to ensure compliance with this policy, and the University will take appropriate action if they fail to do so.⁵

³ Members of the University community include faculty, students, and non-faculty employees, including those covered by collective bargaining agreements. This policy covers all members of the University community, without exception. The procedures below apply to all members of the University community except employees covered by collective bargaining agreements that specifically establish other procedures for resolving sexual harassment complaints.

⁴ Sexual harassment committed by a faculty member will be considered "personal misconduct that destroys or impairs academic usefulness" and, therefore, may result in termination for cause. Sexual harassment by a non-faculty employee will be considered "conduct incompatible with the welfare of the University" and, therefore, likewise may be grounds for termination. Sexual harassment by a student will be considered an infraction of the Code of Conduct subject to penalties including suspension or expulsion.

⁵ The University, for example, may suspend or terminate a contract if the contractor fails to correct a sexual harassment problem that the University has brought to its attention. Tolerance of sexual harassment also may result in a contractor's being disbarred from further work for the University.

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II. Definition

For the purposes of this policy, sexual harassment may be defined as unwelcome sexual advances, requests for sexual favors, and other expressive or physical conduct of a sexual nature, when

- A) Submission to such conduct is explicitly or implicitly made a term or condition of employment or status in a course, program, or activity; or
- B) An individual's submission to or rejection of such conduct is used as a basis for an academic or employment decision affecting the individual; or
- C) Such conduct has the purpose or effect of substantially interfering with an individual's academic or work performance; or
- D) Such conduct, in intent or effect, creates an intimidating, hostile, or offensive environment for work or learning.

III. Examples

Examples of conduct prohibited by this policy include, but are not limited to:

- A) Persistent, unwelcome flirtation, advances and/or propositions of a sexual nature;
- B) Repeated insults, humor, jokes and/or anecdotes that belittle or demean an individual's or a group's sexuality or sex;
- C) Repeated, unwelcome comments of a sexual nature about an individual's body or clothing;
- D) Unwarranted displays of sexually suggestive objects or pictures;
- E) Unnecessary touching, such as patting, pinching, hugging, or repeated brushing against an individual's body;
- F) Suggestions that submission to or rejection of sexual advances will affect decisions regarding such matters as an individual's employment, work assignments or status, salary, academic standing, grades, receipt of financial aid, or letters of recommendation; and
- G) Sexual assault.

IV. Responsibilities

All members of the University community are responsible for ensuring that their conduct does not sexually harass any other member of the University community. This same responsibility extends to employees of third parties doing business with the University or on University premises and to campus visitors.

University administrators and supervisors have the further responsibility of preventing and eliminating sexual harassment within the areas they oversee. If administrators or supervisors know sexual harassment is occurring, receive a complaint of sexual harassment, or obtain other information indicating possible sexual harassment, they must take immediate steps to ensure the matter is addressed, even if the problem or alleged problem is not within their

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areas of oversight. Faculty members likewise must inform an appropriate administrator or other University officer if they have reason to believe sexual harassment is occurring.⁶

V. Informal Resolution Procedures for Complaints Against Members of the University Community

A. General

Complaints under informal procedures may be oral or written. They will be kept confidential. Except as compelled by law, disclosure of their existence or substance will be limited to those who, in the interests of fairness and problem resolution, have an immediate need to know. Moreover, absent consent, a complainant's identity will not be divulged to the accused. However, no disciplinary action against an accused person will be initiated without disclosure unless the charges could be effectively rebutted without knowing who brought them⁷ or unless so much corroborating evidence can be presented that the complaint itself would not be necessary to determine fault.

Informal procedures generally will involve efforts to mediate a resolution that both the complainant and the accused can agree upon.⁸ The accused, thus, will be informed of the existence and nature of the complaint and will have an opportunity to respond. As indicated below, even if mediation is not undertaken, the accused will be informed that a complaint has been lodged.

To protect the legitimate interests of all parties, complaints under informal procedures must be brought within 20 calendar days of the precipitating incident. Individuals who believe they have been subject to sexual harassment may choose to avail themselves of informal resolution procedures. Use of informal procedures is not a prerequisite to initiating formal procedures (see VI). However, if informal procedures used, the filing deadline for formal discrimination complaints will be extended from 20 calendar days to 45 calendar days after the precipitating incident occurred.⁹

B. Preliminary Counseling and Guidance

Complainants may report sexual harassment problems to their advisor or supervisor or to the supervisor of the person behaving objectionably.¹⁰

⁶ Faculty members may appropriately inform their departmental chairperson, program director, academic dean, or Vice President or any administrator with comparable supervisory authority over the individual whose conduct may be problematic.

⁷ For example, disclosure may not be necessary in cases involving alleged conduct that was witnessed by any number of persons.

⁸ Mediation, however, will not involve face-to-face meetings between the parties unless the complainant agrees.

⁹ If the harassment has been ongoing, complaint deadlines in these procedures will be calculated from the most recent episode.

¹⁰ As used here in, "advisor" means a student's academic advisor or a faculty member with equivalent responsibilities for guiding the student's academic plans and progress--

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The role of the advisor or supervisor at this point is to counsel the complainant about sources of further assistance, including Vice Presidential Designees (see C), the Assistant Vice President for Human Resources (see D), the University's Title IX Coordinator (see E), and the University's Equal Opportunity Officer, who receives formal discrimination complaints.¹¹

For the purposes of reporting deadlines, consultation with an advisor or supervisor will be understood as an initiation of informal procedures. However, contacting an advisor or supervisor will not trigger mediation efforts. To initiate mediation and other such assistance, complainants must promptly bring their complaint to the appropriate Vice Presidential Designee or, if they are non-faculty employees, to the Assistant Vice President for Human Resources, or, whatever their status, to the Title IX Coordinator.

Advisors and supervisors must, within 5 work days, report all complaints they receive to the appropriate Vice Presidential Designee or, if the complainant is a non-faculty employee, to the Assistant Vice President for Human Resources, even if a complainant decides not to pursue the matter.

Although supervisors initially will only counsel complainants and submit reports, they will remain responsible for assisting with resolution efforts, if requested, and for exercising their authority to prevent further problems.

C. Informal Resolution Procedures for Faculty and Students

The Vice Presidents for Academic Affairs, Health Affairs, and Student Affairs will each designate someone under his/her immediate supervision to handle informal sexual harassment procedures and to initiate actions against sexual harassment. Faculty who believe they have been sexually harassed may, initially or after preliminary counseling with, for example, their departmental chairperson or dean, bring their complaints to the Designee for the Division in which they are employed. Initially or after preliminary counseling with their advisor, students may bring sexual harassment complaints to the Student Affairs Designee.

The following procedures apply to all three Vice Presidential Designees.

Upon receipt of a complaint, the Designee will counsel the complainant on options for resolving the problem. The Designee also will, if the need seems apparent, initiate immediate action to protect the complainant from harm or reprisal. In addition, the Designee will ensure the appropriate supervisor is informed about the complaint.

If mediation seems appropriate and the complainant agrees, the Designee will attempt to negotiate a resolution of the problem. He/she will inform the

for example, the student's thesis or dissertation director. Supervisors whom students might choose to consult include department chairpersons, program directors, and academic deans.

¹¹ As indicated below, complainants may contact any of these sources of assistance without first consulting an advisor or supervisor.

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complainant of any proposed resolution developed through mediation efforts. The complainant may accept the resolution or initiate formal proceedings. If the Designee has not been able to mediate a resolution within 35 calendar days of the precipitating incident, he/she will so inform the complainant and advise on the option of filing a formal complaint.

The Designee will inform the concerned Executive-Level Officer of complaints that will be neither pursued through formal procedures nor resolved through mediation.¹² The Executive-Level Officer will review and, if necessary, further investigate the matter. If the Executive-Level Officer concludes that there are grounds for the sexual harassment complaint, he/she will take steps necessary to correct the problem. Such steps may include disciplinary action under established University procedures.¹³

If, after initial counseling on options, the complainant does not wish to pursue the matter, the Designee will inform the accused of the complaint to the extent consistent with the complainant's expressed wishes regarding disclosure. The Designee also will attempt to determine whether facts support the complaint because the University has obligations to eliminate sexual harassment even if a particular complainant does not so request.

If fact gathering and/or attempts to mediate indicate that disciplinary action could be warranted, the Designee will so advise the responsible Dean or Director and the responsible Executive-Level Officer. Alternatively, the Designee may, within 45 calendar days of the precipitating incident, initiate formal procedures by filing a complaint with the Equal Opportunity Officer. The Designee will, in this instance, serve as complainant in place of the victim of the apparent harassment. However, statements made by the complainant and the accused to the Designee during the informal process may not be used, without their consent, as evidence in the formal procedures or any resulting appeal procedures. Nor may statements made by the complainant be used without disclosing his/her identity. A complainant's assertions, thus, may not serve as evidence without a consent to disclosure.

Concurrent with the filing, the Designee will inform the accused of the action and possible consequences. The Designee also will provide the accused with a copy of his/her complaint. Within 15 work days of the filing, the accused may submit a written response to the concerned member of the Equal Opportunity Committee¹⁴ or the person designated to conduct the investigation. The response will become part of the investigative record. If the investigation results in disciplinary action, the response will be included in the offender's official file if he/she so requests.

¹² The concerned Executive-Level Officer is the member of the Administrative Cabinet who exercises ultimate oversight over the accused.

¹³ As indicated above, disciplinary action generally will involve informing the accused of the complainant's identity. Without a complainant's consent to disclosure, disciplinary action will be limited to cases where knowing who initially complained could not materially help the accused respond to the evidence presented in support of the action.

¹⁴ The Equal Opportunity Committee consists of all Executive-Level Officers. The concerned member of the Committee is the Executive-Level Officer responsible for corrective action in the event the complaint is found to be justified.

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Designees will forward confidential records of complaints received and their disposition to the University's Equal Opportunity Officer. The records will not be included in complainants' or accused parties' official files.

D. Informal Resolution Procedures for Non-Faculty Employees

Sexual harassment complaints are covered by established Grievance Policies in the Non-Faculty Employee Handbook. Thus, non-faculty employees who believe they have been sexually harassed should bring their complaints to the Assistant Vice President for Human Resources. The Assistant Vice President for Human Resources or his/her designee will review the complaint and seek resolution from the appropriate Executive-Level Officer.

E. Alternative Informal Resolution Procedures Available to All Members of the University Community

Faculty, students, and non-faculty employees may, initially or after preliminary counseling, bring sexual harassment complaints to the University's Title IX Coordinator. The Title IX Coordinator will follow the procedures outlined for Vice Presidential Designees.

VI. Formal Grievance Procedures

Complaints of sexual harassment may be lodged and resolved according to the University's established Equal Opportunity Grievance Procedures.¹⁵ However, as indicated above, the filing deadline will be extended from 20 to 45 calendar days if complainants have sought resolution through informal procedures.

If the Equal Opportunity Officer believes that investigation by the concerned Executive-Level Officer would be likely to involve a conflict of interest, he/she will, with the President's approval, refer the complaint to another member of the Equal Opportunity Committee.

VII. Procedures for Complaints Against Persons Who Are Not Members of the University Community

Individuals who believe they have been sexually harassed by employees of those who do business with the University or by campus visitors should bring their complaints to the same person they would contact for an informal resolution of a complaint against a member of the

¹⁵ The Equal Opportunity Grievance Procedures are the University's formal procedures for investigating and adjudicating complaints of any type of illegal discrimination. The Procedures are published in the Non-Faculty Employee Handbook and "The H-Book." They also may be obtained from the University's Equal Opportunity Officer.

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University community. Complaints against third parties should be brought within 20 calendar days of the precipitating incident.

Recipients of complaints against third parties will attempt to determine whether facts support the charges. Within 35 calendar days of complaint receipt, they will initiate action to correct corroborated problems and inform the complainant of the steps they have taken or inform the complainant that they have not found adequate evidence to support the charges.

VIII. Retaliation

Threats, other forms of intimidation, and retaliation against a complainant or any other party involved in implementing the University's sexual harassment policy are violations of the policy and, thus, may be grounds for disciplinary action.

IX. 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 procedures outlined above. 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 charges should file a written complaint no later than 20 calendar days after they learn the nature of the allegations against them. They should submit their complaint to the same officer who received the allegedly false complaint.

Vice Presidential Designees, the Assistant Vice President for Human Resources, and the Title IX Coordinator will review the evidence for any false-charge complaint they receive, afford the original complainant¹⁶ an opportunity to respond, and investigate further, if necessary. If they find sufficient grounds for the false-charge complaint, they will initiate disciplinary action. They also will confer with the falsely accused to determine whether other remedial measures might be appropriate. If they find the evidence does not support the false-charge complaint, they will so inform both the bringer of the complaint and the original complainant.

The Equal Opportunity Officer will hold any false-charge complaint he/she receives until a final decision on the original complaint has been reached. If the original complaint is found to be without merit, the Equal Opportunity Officer will refer the false-charge complaint to the member of the Equal Opportunity Committee to whom the original complaint was referred. That member of the Equal Opportunity Committee will review the evidence, afford the original complainant an opportunity to respond to the false-charge complaint, and reach a separate determination on it. If the charge is found to be false, rather than merely unsubstantiated by available evidence, the Equal Opportunity Committee member will initiate disciplinary and any other appropriate corrective action. The Equal Opportunity

¹⁶ As used herein, "original complainant" means the complainant accused of false charges.

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Committee also will promptly inform both the original complainant and the complainant alleging false charges of his/her disposition of the matter.

Vice Presidential Designees, the Assistant Vice President for Human Resources, the Title IX Coordinator, and concerned members of the Equal Opportunity Committee may, on their own initiative, institute disciplinary and, where appropriate, other corrective action if, in investigating a sexual harassment complaint, they determine the charges are knowingly false or were filed, without regard for truth, in an effort to cause harm.

X. Disciplinary Action

Any disciplinary actions taken against members of collective bargaining units will be in accordance with the applicable collective bargaining agreement. Disciplinary actions against individuals who do not belong to collective bargaining units will be in accordance with the applicable University handbook.

XI. Consensual Relationships

Romantic and sexual relationships between faculty members and students and between supervisors and supervisees do not necessarily involve sexual harassment. However, the powers faculty members exercise in evaluating students' work, awarding grades, providing recommendations and the like will generally constrain a student's actual freedom to choose whether to enter into or to end a romantic or sexual relationship with a faculty member. Supervisees likewise may not feel fully free to reject or end a romantic or sexual relationship with their supervisor.

Therefore, where such power differential exists, it may be exceedingly difficult to defend against a charge of sexual harassment on the grounds that the relationship was consensual. In internal proceedings, the University generally will be unsympathetic to a defense based on consent when the facts establish that the accused had the power to affect the complainant's academic or employment status or future prospects.

Even genuinely consensual relationships between faculty members and students and supervisors and supervisees may be problematic. For example, they may result in favoritism or perceptions of favoritism that adversely affect the learning or work environment. Consensual relationships involving a power differential, therefore, may violate University policy and equal opportunity law.