

**SEXUAL HARASSMENT POLICY
AND GRIEVANCE PROCEDURE
FOR EMPLOYEE¹ CLAIMS OF HARASSMENT
BY ANOTHER EMPLOYEE,**

student or sexual harassment of a college faculty member, guest, administrator or employee by a student is governed by the Student Code of Conduct. Sexual harassment of a student by a faculty member, an administrator or any other employee of the college is governed by the Sexual Harassment Policy and Grievance Procedure for Student Claims of Harassment by a Faculty Member, Administrator or Employee.

Complaints about sexual harassment will be responded to promptly and equitably in accordance with the procedures set out under the applicable policy. The confidentiality of all members of the college community will be respected in each step of the complaint procedure, insofar as that is reasonably practicable. In addition, each policy explicitly prohibits retaliation against individuals for bringing complaints of sexual harassment or for participating or refusing to participate in investigations of sexual harassment. Similarly, each policy prohibits retaliatory conduct against an individual simply because he or she has been accused of sexual harassment. An individual found to

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other expressive or physical conduct of a sexual nature or conduct directed at a person because of his or her sex, including, but not limited to, when

- *submission to such conduct is explicitly or implicitly made a term or condition of employment, or*
- *submission to or rejection of such conduct is used as a basis for an employment decision affecting the individual, or*
- *such conduct has the purpose or effect, when judged from the perspective of a reasonable person in the position of the complaining individual, of substantially interfering with an individual's work performance, or*
- *such conduct has the purpose or effect, when judged from the perspective of a reasonable person in the position of the complaining individual, of creating an intimidating, hostile or offensive environment for working.*

In determining whether sexual conduct creates an intimidating, hostile or offensive environment or substantially interferes with an individual's work performance, the college recognizes that unless the conduct is egregious, a single incident or isolated incidents of offensive sexual conduct or remarks generally do not create an intimidating, hostile or offensive environment. A "hostile environment" requires an establishment of a pattern of hostile, intimidating or offensive conduct. However, a single egregious incident of harassment may be sufficient to constitute a violation of this policy; the more egregious the harassment, the less need to show a repetitive series of incidents. This is particularly so when the harassment is physical.

Examples of inappropriate conduct covered by this policy (subject to the above conditions) include, but are not limited to, the following:

- *unwanted flirtation, advances or propositions of a sexual nature;*
- *insults, humor, jokes or anecdotes that belittle or demean an individual's or a group's sex or sexuality;*
- *unwelcome comments of a sexual nature about an individual's body or clothing;*

- *unwarranted displays of sexually suggestive objects or pictures;*
- *unwelcome touching, such as patting, pinching, hugging or brushing against an ind*

individuals to whom such information was reasonably disclosed in the course of a sexual harassment investigation. All complaints will be fully investigated and the appropriate remedial action will be taken against alleged harassers found to have violated the college's sexual harassment policy.

Any information acquired during the investigation will be kept in a confidential file in the Office of Human Resources and retained by the college for at least the statutorily required period.

2. Waiver of Confidentiality: A complainant or a respondent may be deemed to have waived, directly or indirectly, the confidentiality provisions of this policy by voluntarily disclosing information about the complaint or the complaint proceedings to parties within or outside the college community who are not directly involved in the investigation or complaint process. For instance, if a complainant or a respondent makes any public statement tending to impute negligence, misconduct, unfairness or incompetence to the college in conducting a sexual harassment investigation or complaint proceeding, the college shall have the right to disclose whatever information that is reasonably required to rebut or refute the allegations.

D. Retaliation

No individual shall be retaliated against in any way by a member of the college community for his or her participation in this complaint procedure. No complainant or witness shall be retaliated against in any way by a member of the college community for his or her nonparticipation in this complaint procedure. Every effort should be made to protect members of the college community so that they may use or participate in the sexual harassment complaint procedure without fear of reprisal or retaliatory action. Threats, other forms of intimidation, and retaliation against the complainant or any other individual implementing or using the college's sexual harassment complaint procedure are violations of this policy and, thus, may be grounds for disciplinary action.

If an employee is found to have made a malicious or false statement, he or she may be subject to disciplinary action under the applicable collective

receipt requested) of the determination. If some other form of misconduct is uncovered, the complainant will be notified that the complaint has been forwarded to the proper forum.

If sufficient cause is found, then the Compliance Officer or Administrative Director will forward the file to the Sexual Harassment Committee for an investigatory hearing. If the respondent admits to the allegations made against him or her, no investigatory hearing shall be held. Instead, the file will be forwarded to the Sexual Harassment Committee, which will make a recommendation to the Executive Dean of the campus where the respondent is employed as to appropriate sanctions.⁴ If no sufficient cause is found, then the complainant shall have five (5) days from receipt of such notice in which to submit a written appeal of the finding to the Vice President for Academic and Campus Affairs.⁵

5. Appeal of a No Sufficient Cause Determination

Upon receipt of a written appeal of a determination of no sufficient cause, the Vice President for Academic and Campus Affairs shall review the file and, within five (5) days, render a decision on the appeal. If the Vice President for Academic and Campus Affairs affirms the no sufficient cause determination, the complaint is dismissed. If the Vice President for Academic and Campus Affairs overturns the no sufficient cause determination, then he or she will forward the file to the Sexual Harassment Committee for an investigatory hearing.

B. Formal Stage: Investigatory Hearing

1. Sexual Harassment Committee Membership

The Sexual Harassment Committee is comprised of seven members: one (1) member each of the tenured faculty elected for three (3) years by governing bodies of the Eastern, Western and Ammerman campuses; two (2) members selected by the A.M.E.

⁴ If the respondent is an executive dean or is employed in central administration, the Sexual Harassment Committee shall make its recommendation to the vice president it deems appropriate. If the respondent is a vice president, the Committee shall make its recommendation to the President. If the respondent is the President or a trustee, the Committee shall make its recommendation to the Board of Trustees.

⁵ If the respondent is employed in central administration or is a trustee, the Sexual Harassment Committee shall determine the appropriate person to whom the complainant may submit an appeal.

unit at the College for three (3) years, one (1) from the white collar unit and one (1) from the blue collar unit; one (1) individual selected by the President for one (1) year; the Chair, who shall be either the Compliance Officer or the Administrative Director of Human Resources (whoever did *not* conduct the investigation). College legal counsel shall be a non-voting advisory member of the Committee. The Board of Trustees shall be advised of all complaints that reach the Formal Stage.

a. Recusal

Any Sexual Harassment Committee member shall be recused if he or she is a party in the complaint, an immediate supervisor of the complainant or the respondent or a witness to the allegations in the complaint. Committee members may also be recused for other reasons, including but not limited to, personal, business or financial conflicts of interest between the committee member and either the complainant or the respondent. The Compliance Officer will determine whether a conflict of interest exists. If the Compliance Officer is directly involved in the

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The hearing serves both an investigatory and an adjudicative function. Both parties shall be notified of their right to seek advice from counsel or a union representative and of their right to have their advisor present at the hearing. The power of examination and cross-examination is reserved exclusively to the committee. However, before the hearing, the parties or their advisors may submit suggested questions or propose that particular witnesses be called. The committee will make every effort to ask questions so submitted that go to the issue and to call proposed witnesses that have testimony relevant to the issue. The hearing shall be recorded by stenographic or other means and a transcript of the proceedings shall be held in the Office of Human Resources. The complainant and the respondent may review the transcript in that office.

The hearing shall include, to the extent possible, the following:

- Examination of the complainant, the respondent and any witnesses who may be of assistance in resolving the complaint; and
- Review of any documents and other information submitted by the parties or witnesses; and
- Review of any other documents or information the committee deems relevant.

The hearing shall be closed and may only be attended by the complainant (and his or her advisor), the respondent (and his or her advisor), the committee members, College legal counsel, testifying witnesses and personnel necessary for the administration of the hearing. The parties and their advisors have the right to be present throughout the hearing. Testifying witnesses may only be present for their own testimony.

The committee shall not be bound by technical rules of evidence, but may consider any relevant material and reliable evidence that it finds probative. The committee shall determine the admissibility, relevance and weight of the evidence before it.

The committee is to investigate sexual harassment complaints and is expressly authorized to investigate, consider and report findings regarding other misconduct related to the alleged sexual harassment that may be revealed during the course of the sexual harassment investigation. If the committee finds misconduct that does not constitute sexual harassment, the committee shall notify the complainant that the committee has forwarded the complaint to the proper forum.

3.

4. Appeal to the President

Upon receipt of a written appeal of the Executive Dean or designee's determination, the President shall review the investigatory file, the written findings of the Sexual Harassment Committee and the written decision of the Executive Dean or designee and, within ten (10) days, render a written decision on appeal. A copy of the written decision shall be forwarded to the Office of Human Resources, where it shall be maintained in a confidential file. If the President agrees with the Executive Dean or designee's decision, then the Executive Dean or designee's determination as to the action to be taken shall be followed. If the President disagrees with the Executive Dean or designee's decision, then the President shall determine the appropriate action to be taken. Such determination shall be based solely on the President's review of the investigatory file, the written findings of the Sexual Harassment Committee and the written decision of the Executive Dean; the President shall make no independent findings of fact. The President's decision is final. If the final decision is to discipline the respondent, the applicable contractual provisions shall be followed.

Upon completion of all stages of the Sexual Harassment Policy and Grievance Procedure, the original file and all copies will be maintained in the Office of Human Resources for at least the statutorily required time. No copies of the file will be maintained in any other office or department.

Board of Trustees

August 8, 2002