

SEXUAL HARASSMENT POLICY

I. Policy Statement

Jacksonville University strives to establish and maintain a work and academic environment in which the dignity and worth of all members of the University Community are respected; an environment characterized by equal employment, academic opportunity, academic freedom, (freedom of inquiry and expression) and the absence of harassment and intimidation. Sexual harassment of students, staff, administrators and faculty at Jacksonville University is inconsistent with these objectives and is unacceptable conduct that will not be tolerated. This policy is intended to prohibit sexual harassment; to establish procedures providing due process for both complainants and those accused of sexual harassment; and to clearly distinguish between expressive behavior which might constitute sexual harassment and expressive behavior protected by the University's commitment to academic freedom. It is the responsibility of each member of the University Community to foster and maintain an environment free from sexual harassment.

II. Definition

For purposes of this policy, sexual harassment may involve the action of a person of either sex against a person of the opposite or same sex. Sexual harassment of students, staff, administrators and faculty at Jacksonville University is defined, in accordance with the Equal Employment Opportunity Commission's (EEOC) definition, as any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education or enrollment;
2. Submission to or rejection of such conduct is used as the basis for employment, or academic decisions affecting that individual or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, academic experience, or creates an intimidating, hostile, or offensive work environment or academic environment.

III. Prohibited Conduct

It is a violation of this policy for any member of the University Community to engage in sexual harassment or to retaliate against any member of the University Community for raising an allegation of sexual harassment, filing a complaint alleging sexual harassment, or for participating in any proceeding to determine if sexual harassment has occurred. Sexual Harassment may take many forms. Prohibited behaviors include, but are not limited, to the behaviors described in this section.

A. Sexual Favors as a Basis for Actions Affecting an Individual's Welfare as a student or Employee.

No member of the University Community shall behave toward another member of the University Community in any of the following ways:

1. Make, or threaten to make, submission to or rejection of requests for sexual favors a basis for decisions or assessment affecting an individual's employment or education.
2. Agree or offer to trade sexual favors for favorable decisions or assessments affecting an individual's employment or education.

B. Flagrant or Repeated Sexual Advances, Requests for Sexual Favors, and Physical Contacts Harmful to Another's Work or Academic Performance or to the Work or Academic Environment. No member of the University Community shall behave toward another member of the University Community in any of the following ways:

1. Make sexual advances, request sexual favors, or make physical contact commonly understood to be of a sexual nature,
 - (a) if the conduct is unwelcome by the person(s) to whom it is directed, and
 - (b) if, because of its flagrant or repeated nature, the conduct either
 - (1) seriously interferes with work or academic performance of the person(s) to whom the conduct was directed, or
 - (2) makes the institution's work or academic environment hostile, intimidating, demeaning or abusive to a person of average sensibilities.

C. Flagrant or Repeated Verbal and Other Expressive Behavior of a Sexual Nature which is Harmful to Another's Work or Academic Performance or to the Work or Academic Environment. No member of the University Community shall behave toward another member of the University Community in any of the following ways:

1. Make sexual gestures, inquire about or discuss sexual activities, make sexual comments, statements, jokes, slurs or gender-related epithets concerning a specific person(s) if such gestures, inquiries and remarks
 - (a) are commonly considered by people of a specific sex to be demeaning to that sex, and
 - (b) if, because of its flagrant or repeated nature, the conduct either
 - (1) seriously interferes with the work or academic performance of the person(s), to whom the conduct is addressed or directed, or
 - (2) makes the work or academic environment hostile, intimidating, demeaning or abusive to persons of average sensibilities of that sex.
2. Display visual materials, alter visual materials displayed by others if
 - (a) such displays, or alterations are commonly considered by persons of a particular sex and of average sensibilities to be demeaning to members of that group, and
 - (b) if, because of its flagrant or repeated nature, the display or alteration or statement either
 - (1) seriously interferes with work or academic performance of a member of the University Community, or
 - (2) makes the work or academic environment hostile, intimidating, demeaning or abusive to persons of average sensibilities of a particular sex.

This part shall not be interpreted so as to interfere with academic freedom. Section D below, addresses this concern and distinguishes between expressive behavior which is protected by academic freedom and, therefore, permitted, and expressive behavior which may be deemed sexual harassment.

D. Verbal and Other Expressive Behavior of a Sexual Nature in Instructional Settings.

1. Definitions for Purposes of Section III D:

- (a) An “instructional setting” is a situation in which a member of the faculty is communicating with a student (s) concerning matters the faculty member is responsible for teaching the student(s). These situations include, but are not limited to, such communication in a classroom, in a laboratory, during a field trip, and in a faculty member’s office.
- (b) “Expressive behavior” is conduct in an instructional setting through which a faculty member and students communicate. It includes, but is not limited to, the use of visual materials, oral or written statements, and assignments of visual or written materials.

2. Expressive behavior related to subject matter shall be protected and shall not be a basis for discipline of faculty or students unless the appropriate hearing body finds that the accused’s claim that the expressive behavior was germane to the subject of the course is clearly unreasonable. Academic freedom in choosing materials, constructing courses and conducting instruction will be protected to the fullest extent possible.

3. A faculty member’s or a student’s expressive behavior will be deemed unprotected and subject to discipline if,

- (a) all claims that the behavior is germane to the subject are deemed clearly unreasonable, and
- (b) the behavior is prohibited by Section III C above.

E. Consenting Relationships

Consenting sexual and romantic relationships between a member of the University Community and someone for whom he or she has professional responsibility (e.g., faculty/student relationship, administrator/faculty relationship, supervisor/employee relationship) are strongly discouraged by Jacksonville University for the reasons described below.

1. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in giving praise or blame, grades, recommendations for further study and future employment, etc., can greatly diminish the student’s actual freedom of choice should sexual favors be included among the professor’s other legitimate demands. Similarly, an employee may feel coerced into an unwanted relationship because he or she feels that refusal to enter the relationship will adversely affect his or her employment.
2. Conflicts of interest may arise when a faculty member, supervisor or other member of the University Community is required to evaluate the academic performance or work performance of an individual with whom he or she has a romantic relationship. It is difficult at best to be unbiased in such a situation, and other student(s) or co-workers of the individual involved in the relationship may perceive that individual as having an unfair advantage.
3. If such a romantic relationship ends negatively, the ongoing educational or work relationship can become difficult. There is a possibility that the individuals involved may seek to harm one another or perceive that they are or were being harmed, and charges of sexual harassment may be raised.

If a complaint is lodged by one party to a consensual relationship against the other, and the facts establish a power differential between the accused and the complainant, the presumption by those investigating or acting as a hearing body in this matter will be that the accused has

violated the policy against sexual harassment, unless the accused can show by clear and convincing evidence that there was genuine consent to the relationship by the complainant.

F. No Retaliation

No member of the University Community shall retaliate in any way against any other member of the University Community for:

1. reporting instances of sexual harassment, filing a complaint within the University or outside the University, responding to a complaint, or
2. appearing as a witness, investigating a complaint or serving on a hearing body concerning a complaint of sexual harassment.

G. False and Malicious Charges

False accusations of sexual harassment can seriously injure innocent people. Where the preponderance of the evidence shows that a member of the University Community intentionally made a false and malicious charge of sexual harassment, that person will be subject to disciplinary action. Charges made in good faith which are erroneous or unproven are not subject to discipline.

IV. Procedures

The University reserves the right to investigate and take appropriate action in any matter of sexual harassment which comes to its attention.

A. Complaint

Any member of the Jacksonville University faculty, staff, administration, or student body who believes he or she has been subjected to unlawful discrimination, as defined in the University's sexual harassment policy, may initiate informal and formal actions for complaint resolution. It is the responsibility of persons receiving complaints about the behavior of a member of the University Community, which is or may be construed to be a violation of this policy against sexual harassment, to promptly proceed to report the alleged violation in the manner required by this policy. Failure to do so also constitutes a violation of University policy.

B. Confidentiality

All complaints of sexual harassment will be handled promptly, treated with discretion, and fully and fairly investigated. Access to information provided by the complainant will be available only to those persons on a reasonable need-to-know basis. The University will make every effort to maintain confidentiality of the charges and proceedings, subject to the disclosure it deems necessary to conduct a full and fair investigation.

C. Informal Procedure

The purpose of the informal procedure is to provide an opportunity for the parties to reach a mutually acceptable resolution. A complainant is encouraged to use the informal procedure prior to a formal complaint process. A complainant may initiate an informal procedure for resolution of a sexual harassment complaint by contacting a Receiving Officer ("RO"). For student complainants, the RO is the Dean of Students or any counselor at the Student Counseling Center; for faculty the RO may be any academic dean or member of the Sexual Harassment Committee described in Section IV D 3; and for administrators and staff the RO

may be the Director of the Human Resource Department, or any member of the Sexual Harassment Committee described in Section IV D 3.

The RO shall provide counseling and assistance as soon as possible. Informal complaints should be made as soon as possible, but in no event later than thirty days (30) after the alleged incident.

1. The RO will counsel the complainant concerning the options available under the sexual harassment policy. If the complainant chooses to proceed with an informal complaint, the complainant may choose one or more steps described below.
 - (a) The complainant may choose to attempt to resolve the matter by confronting the harasser directly or indirectly (e.g. in person with a witness present, or by letter).
 - (b) The complainant may request that the RO intervene and help the complainant mediate the complaint with the accused;
 - (c) The complainant may request that the RO discuss the accusation with the accused, out of the presence of the complainant, and attempt to get resolution.
2. The RO shall attempt to assist the complainant in reaching a resolution within thirty days (30) of the filing of the informal complaint and shall make a written summary of the informal proceedings which will be retained by the Sexual Harassment Officer ("SHO") who shall be appointed by the President.
3. If the complainant chooses not to proceed with an informal or formal complaint, the University reserves the right to take appropriate action.

D. Formal Procedure

If a complaint cannot be resolved informally or if the complainant chooses to take the complaint through the formal procedure, the complainant may elect to initiate the following formal complaint procedure.

1. A sexual harassment complaint must be made, in writing, and should be delivered or sent to the SHO, or any member of the Sexual Harassment Committee (see 3(b) below) in an envelope marked "Personal and Confidential" within one hundred and eighty (180) days of the alleged sexual harassment incident; or, if an informal complaint has been filed, within one hundred and twenty (120) days of the final action on the informal complaint.
2. The written complaint must include the following information:
 - (a) name, address and telephone number of the complainant,
 - (b) nature of the complaint,
 - (c) date(s) and location of the occurrence,
 - (d) facts upon which the complaint is based and supporting evidence, and
 - (e) redress sought by the complainant.
3. The SHO shall notify the accused of the nature of the complaint, the identity of the complainant and the procedures to be followed. The SHO shall then convene a Sexual Harassment Panel ("SHP") which shall commence an investigation of the complaint as soon as possible but by no means longer than five (5) working days from the receipt of the complaint.
 - (a) The SHP will consist of five (5) members, including the SHO, chosen from the Sexual Harassment Committee.

- (b) The Sexual Harassment Committee shall consist of twelve (12) persons, excluding the SHO, who shall be appointed by the President for a two-year term, and consist of persons of both genders, representing the student, faculty, administrators and staff. Members of the Faculty Grievance Committee or University Discipline Committee may not serve a simultaneous term on the Sexual Harassment Committee.
 - (c) The SHO will select the four (4) members for each SHP from the members of the Sexual Harassment Committee with the following parameters in mind:
 - 1) fairly apportion the opportunities to serve on an SHP;
 - 2) provide for representation from the accused's branch of the University; and
 - 3) insure that participants on the SHP have no direct association with the persons involved in the complaint and/or a conflict of interest.
- 4. The SHO will coordinate the investigation and deliberations of the SHP. It will be the responsibility of the SHP to investigate the complaint and report its findings to:
 - (a) the President when faculty or administrators are accused;
 - (b) to the Dean of Students when the accused is a student;
 - (c) and to the Vice President for Finance when the accused is staff. To maintain the confidentiality required by this policy, members of the SHP are prohibited from discussing matters related to the complaint outside meetings of the SHP unless such discussions are part of the assigned investigatory process.
- 5. The investigation will provide an opportunity for both the complainant(s) and the accused person(s) to submit facts and to identify witnesses to be interviewed. The SHP shall review the facts and circumstances and interview witnesses identified by the parties. Within seven (7) working days of the completion of the investigation, the Officer will provide a written report of the formal investigation which details the findings, determines whether there is cause to believe the policy was violated, and includes any actions recommended to the President, Dean of Students or Vice President of Finance, as appropriate. The SHO shall also provide a report to the complainant, unless prohibited by law, and to the accused. In addition, the SHO shall also provide a quarterly report to the President's office on the nature and action of each complaint related to sexual harassment without identifying details of the complaint or the names of the parties involved.
- 6. If the report of the SHP finds that there is cause to believe that the policy has been violated and recommends action against a faculty member or administrator, the accused person has five (5) days to request a hearing before the Grievance Committee, in accordance with the principles and procedures specified in the Bylaws of the Faculty, including the right of appeal.
- 7. If the report finds that the policy has been violated and recommends action against a student, the accused student has five (5) days to request a hearing in accordance with the Code of Student Rights and Responsibilities, including the right of appeal.
- 8. If the report finds that the policy has been violated by an administrator or a staff person, the accused person has five (5) days to request a hearing in accordance with the Employee Handbook, including the right of appeal.
- 9. If the report finds no probable cause to believe that the policy has been violated, the complainant may appeal, in writing, to the President of the University within five (5)

days of the no probable cause finding. The complainant's appeal must demonstrate that the findings are erroneous, the procedure required by this policy has been violated or that new evidence is available. The Complainant and the accused will be notified in writing, of the President's final decision within ten (10) working days.

E. Other Procedures

The University reserves the right to continue or suspend all proceedings if the complainant or defendant files a charge with the EEOC, through the courts, or a state agency.

V. SANCTIONS

Because of the private nature of sexual harassment incidents, and the emotional and moral complexities surrounding such issues, every effort will be made to resolve problems on an informal basis. If formal charges are pursued and verified, the sanctions applied will vary depending on the nature and severity of the violation and can include termination of employment or dismissal from the University.

Examples of possible sanctions for employees of the University include, but are not limited to, participation in developmental educational programs related to sexual harassment; warning letters; poor job performance ratings impacting upon salary, work reassignment, demotion, non-renewal of contract; and suspension or termination.

Examples of possible sanctions for students of the University include, but are not limited to, referral for counseling; loss of scholarship; denial of on-campus employment; denial of on-campus housing; warning, probation, suspension or dismissal.

VI. IMPLEMENTATION

To assure that all faculty, staff, administrators and students of the University are aware of this policy and the University's commitment to the establishment and maintenance of a working and academic environment free from sexual harassment, copies of this policy will be distributed to the University Community and placed permanently on designated bulletin boards. In addition, summaries of the policy will be included in faculty, staff personnel and student handbooks.