

Faculty Senate Minutes March 8, 2004

Senators Present: Barry Anton, Kris Bartanen, Bill Beardsley (Chair), Terry Cooney, Alyce DeMarais, Julian Edgoose, Robin Foster, Bill Haltom, Suzanne Holland, Paul Loeb, Keith Maxwell, Sarah Parker, David Tinsley

Senate Chair Beardsley called the meeting to order at 4:02 p.m.
The minutes of February 23 were approved.

Special Orders: None

Old Business: Senator Bartanen distributed the draft document, "Campus Policy Prohibiting Harassment" (attached). The document, which was reviewed by university counsel and President Thomas' Cabinet, discusses harassment in a broad definitional context rather than a narrow context. Thus, the current Sexual Harassment policy would be extended to a "Campus Policy Prohibiting Harassment." According to Dean Bartanen, the new framework incorporates legal requirements as well as university needs. In the new policy, which would replace the decade old Sexual Harassment policy, three major revisions are offered for future senate discussion: Extending the sexual harassment policy to a broader definition of harassment; providing support for people going through a sexual harassment process, and modifying the time limit for reporting harassment. Dean Bartanen noted that it is possible to have both a sexual harassment policy and a separate policy concerning other forms of harassment. After reviewing the current trends in policymaking, it was decided to incorporate all forms of harassment under one policy.

Senator Tinsley questioned whether this policy would affect free speech and academic freedom. He asked where the burden of proof would lie?

Senator Foster asked if there was a previous policy for harassment other than sexual harassment. Dean Bartanen said there was no policy prior to this effort. Discussion of the document will occur at a future Senate meeting.

New Business:

Senator Edgoose noted that elections are forthcoming and that there would be only one open seat on the Faculty Senate for next year. This was due to legislation passed two years ago extending the Senate terms to three years from two years. Senator Edgoose noted that the By-laws mandate that one third of the Senate rotate off the Senate each year and that this would not happen during the transition years. Dean Cooney responded that there is usually a deviation from the Bylaw due to leaves, sabbaticals etc, and that this temporary problem would work itself out over time. Senator Edgoose noted that an election for the Faculty Salary Committee would be held, as well as an election for the Faculty Advancement Committee.

Senator Holland wondered if there was an evaluation procedure in place for the now two-year old class schedule? ASC minutes indicated that the schedule was designed following input from various constituencies, and that a long process preceded implementation. Dean Cooney noted that student athletes, clubs and organizations needed time to pursue activities at assured times, and that the schedule had been designed with these issues as one factor. Faculty can appeal to the Academic Dean's office for a special class meeting time "for reasons of academic merit," rather than personal preference.

Senator Loeb raised two issues. He requested that better communication between OIS, faculty, students, and staff be encouraged to avoid the email problems that occurred during January. He suggested that if OIS were planning on making major changes that they notify affected constituencies before they implement those changes.

Senator Loeb also was alarmed that he and other faculty with whom he had spoken were seeing more students who were disclosing that they had psychological issues and asked for guidance. He noted that more students were telling him that they were on psychotropic medications. Faculty with whom he spoke felt unequipped to deal with these students. Senator Loeb asked if training could be provided to better handle these situations. Deans Cooney and Bartanen indicated that faculty can alert the Counseling, Health, and Wellness Services, file a student alert online on the Cascade website (under Academic Notes and Alerts) or call Academic Advising directly if they have concerns about a student's psychological stability. Deans Cooney and Bartanen broadened the discussion by noting that students who have requested academic accommodations must notify Ivey West, Disabilities Services Coordinator, and faculty can affirm student status through her. Senator Loeb indicated that it might be helpful for faculty to receive training in recognizing and responding to students who were emotionally overwhelmed. It was suggested that the Informal Committee on Teaching might take this matter under consideration.

There being no further business, the meeting was adjourned at 5:15 p.m.

Respectfully submitted:

Barry Anton

March 1, 2004 DRAFT

TO: Bill Beardsley, Faculty Senate Chair
Bruce Bechtle, Staff Senate Chair
Ryan Cunningham, ASUPS President-elect
David Macey, University Diversity Committee Chair

FR: Campus Harassment Work Group*

RE: Proposal for a Campus Policy Prohibiting Harassment

Attached is a draft document for a Campus Policy Prohibiting Harassment that incorporates the recommendations formulated by the Working Group over the past year. The draft policy proposes to amend the existing Sexual Harassment Policy. Upon recommendation of President Thomas, the draft has been reviewed by university attorneys and their suggestions are also incorporated in this draft. Further suggested revisions have been offered by members of the President's Cabinet. The proposal is now ready for review by the Faculty, Staff and ASUPS Senates.

Need for a Campus Policy Prohibiting Harassment

Need under the law. We all understand that sexual harassment is a prohibited form of sex discrimination. University counsel affirms that the legal prohibitions applicable to sexual harassment have in recent years been extended to all of the protected categories (race, ethnicity, national origin, age, disability, etc.). The legal foundations for the draft policy are provided in a new Appendix F for the policy. Just as the courts have indicated that institutions and employers need to have sexual harassment policies, that not having a policy can cause legal difficulty and that having a policy can be a protection under the law, so are these expectations extended to other forms of harassment.

Need within university practice. The university's sexual harassment policy has served effectively for a decade and gained credibility over that time. In the absence of a broader policy against harassment, it is not clear to students or employees of the university how complaints may be brought forward or how complaints will be resolved. While someone can bring a formal conduct charge under Standard I or Standard II of the Student Integrity Code, there is not provision for informal resolution of discriminatory harassment issues that are not of a sexual nature or based on a person's sex. While someone can bring a grievance under the Faculty Code or the Staff Personnel Policies, these again are formal resolution processes. We believe that it is very chilling for a

* Members of the Campus Harassment Policy Work Group have included: Kris Bartanen, Vice President for Student Affairs/Dean of Students; Shane Daetwiler, Director of Residential Life; Melissa Dutton '03 (past president, Black Student Union); Rosa Beth Gibson, Associate Vice President for Human Resources; Cathy Hale, Professor of Psychology/Member of the Sexual Harassment Advisory Committee; David Macey, Assistant Professor of English/Chair of the University Diversity Committee; Yoshiko Matsui, Associate Director for Student Services (replacing her predecessor, Monica Nixon); Blaire Notrica '05 (member of the Diversity Committee, co-coordinator of the Student Diversity Center); Kate Sudar'04 (past Panhellenic President); Karli Bryan Winters '03; Charm Wrencher '06 (ASUPS Senator).

student, and perhaps also a staff or faculty member, to think about bringing forward a concern because (1) s/he is not familiar with Faculty Code procedures and (2) a Faculty Code grievance involves having the Academic Vice President take the case on his or her behalf to the Professional Standards Committee. Furthermore, a Campus Policy Prohibiting Harassment would be another means of articulating to our university community the kind of environment to which we are all committed.

In the past year, campus officers have addressed one formal student-student sexual orientation harassment complaint and one formal complaint of racial harassment. Over recent years, we have also had students come forward with concerns about problematic behavior with regard to race in the classroom. In each case, administrators have tried to resolve the concerns by proceeding in a manner “parallel” to the sexual harassment policy, but without a clearly articulated policy document to guide actions or to provide information to complainants or respondents. That stance is awkward and, we think, puts us in legal jeopardy. The draft Campus Policy Prohibiting Harassment is a step toward the policy document that we need.

Identification of Impact and Consultation

The proposed policy would apply to all to whom the current sexual harassment policy applies: students, faculty, staff and vendors, contractors, intern supervisors, etc. (as noted in the policy).

The Campus Harassment Policy Work Group was formed last spring to do the work of reviewing comparison policies, considering issues and forming some recommendations. The group that has joined us in this work has included two members of the faculty (one from the Sexual Harassment Advisory Committee and one from the Diversity Committee), two members of the staff (one from Multicultural Student Services and one from Residence Life), and four students (representing, among other constituencies, the ASUPS Senate, the Diversity Committee, Student Diversity Center affiliated organizations, and the Greek community).

From the outset, the understanding about process was clear and explained in the memo of invitation to the Work Group: recommendations would be drafted; review and revision would need to occur with the Professional Standards Committee and Faculty Senate (which can, of course, refer a matter for discussion to the full faculty), Staff Senate and ASUPS Senate; a policy recommendation would then move to the President; if he concurred, the policy recommendation would need to be considered for approval by the Board of Trustees.

To-date, drafts of the policy have been reviewed by the university’s sexual harassment officers and the Cabinet. The Faculty Senate has also charged the Diversity Committee, at its request, to review and provide input on the draft policy.

Regarding the Proposed Revisions

Items 1-3, 15, 17 and 18 below are specific to extending the existing Sexual Harassment Policy to create a Campus Policy Prohibiting Harassment.

Items 4-6, 8-14, and 16 are suggested revisions to the Sexual Harassment Policy, independent of the creation of a comprehensive policy.

Item 7 concerns support persons both for sexual harassment and other discriminatory harassment situations.

Page numbers refer to the attached “side-by-side” version of the policy documents.

Rationale for the Proposed Revisions

1. Upon recommendation of the Work Group, the new language that opens the draft policy (page 1) is a statement about the environment we hope to foster on the campus. The opening statement continues by referencing the university mission statement and recognizing that a policy prohibiting harassment is not intended to chill open discussion of ideas on the campus.
2. The policy statement (page 2) encompasses all protected categories outlined in local, state or federal law. The policy statement does not extend beyond legally protected categories.
3. The definition of discriminatory harassment (page 3) incorporates the protected categories and the protected rights – to not have one’s work or academic performance or one’s participation interfered with, to learn and work in an environment free from threat or intimidation. In addition, the language distinguishes between expression of opinions that one may disagree with or find uncomfortable and verbal behavior that singles someone out on the basis of their identity.

One of the greater fears with respect to a policy prohibiting harassment is that it is a “speech code” in disguise. This draft policy is not a speech code and we are not interested in advocating for such a code. In summer 2003, in response to controversy on this topic, the Office of Civil Rights provided clarification regarding discriminatory harassment. We propose to incorporate that clarifying language into the draft policy.

Finally, we believe that it is useful for educational reasons to reference the legal foundations for the policy prohibiting harassment in a new appendix for the policy.

4. While current policy (pp. 5-6) prohibits consensual relationships between faculty/staff and students for whom they have any kind of professional responsibility (and the Professional Standards Committee has interpreted this very broadly with respect to professional responsibilities of faculty members—and so we have added the words “current or potential” to the draft), the university does not at present prohibit consensual relationships between a faculty/staff member and faculty/staff whom they supervise. The university used to prohibit such relationships, but that provision of the Staff Personnel Policies was deleted in deference to the Sexual Harassment Policy revisions of the early nineties. Current policy provides only a warning about such relationships. The Director of Human Resources, on behalf of staff members raised the question of whether we wish

to take a stronger stance to discourage or prohibit such relationships. University counsel also advised a stronger stance.

5. New language (IV.A, p. 8) references immediate procedures for response to sexual assault. This wording is for clarification and represents no change in policy or practice.

6. New language (IV.C.1, p.9) notes that CHWS provides counseling for students, not faculty/staff. This wording is for clarification and brings the policy into accord with current practice.

7. One of the issues that has been important to the Work Group (and has been brought up often in the Sexual Harassment Advisory Group) is providing the opportunity for additional support persons in the complaint resolution process. New language here (IV.C.2, p. 9) references a proposal—outlined in Appendix E (p. 29)—that the Sexual Harassment Advisory Committee be replaced by a Harassment Response Committee. Members of the new group would, in addition to other responsibilities, be trained to assist as support persons in complaint resolution processes.

8. We recommend, for ease of policy administration, that the specific list of designated officials be removed from the text of the policy (p. 10 and p. 13) and treated in Appendix E (p. 29). This allows for adjustments without the policy having to be returned to the Board of Trustees for approval of name changes.

9. University legal counsel recommends through wording changes in IV.D (p. 10) and IV.F (p. 14ff) that the policy outline the process that will generally be followed in handling complaint intake and investigation, but that those procedures not be listed as mandatory. The rationale here is that it is better to incorporate the degree of flexibility needed to respond best to the substance of particular incidents.

10. The Work Group recommended that section IV.F.1 (p. 13-14) regarding the 180 day presumptive time limit in the current Sexual Harassment Policy be reconsidered as too short. University legal counsel raised the question of elimination of a time limit in the interest of having the institution be responsive to harassment concerns. In terms of formal response, readers of the current and draft policy should note that Faculty Code, Chapter VI, Sec. 2.a. contains a 30-day limit on the initiation of a grievance: “Within thirty (30) working days of the alleged violation, the grievant shall give written notice thereof to the respondent; provided, that the notice may be served on the dean if the grievant is without knowledge of the identity of the respondent.” The Work Group recommends that the Faculty Code’s 30-day limitation be amended.

11. The Work Group, on recommendation of university sexual harassment officers, suggested that the paragraph in the current Sexual Harassment Policy (IV.F.2, p. 14) be moved earlier in the policy (to IV.D, p. 10) for two reasons. First, when someone comes forward with a complaint, it is important that the complaint be fully documented regardless of whether the resolution of the complaint will proceed informally or formally. It is also possible that a complainant can decide to end an informal resolution process and

seek formal resolution, or vice versa. Second, the revision also better reflects the practice currently used by sexual harassment officers, based on their experience in working with the existing policy and in recognition that complaint intake is a step separate from complaint resolution.

12. The Work Group, on recommendation from the deans of students who have worked with the Student Integrity Code in formal resolution of sexual harassment cases, suggested that section F.3.d (2) (page 17) be added in order to allow a complainant the opportunity to meet with a hearing officer. Such an option is a more victim-friendly approach to the sensitive issues often involved in harassment cases.

13. University legal counsel recommends amendment of language (p. 20 and p. 21) to remove the phrase “mandatory counseling” so as not to suggest that harassing behavior is a matter of mental deficiency.

14. We propose to include language at the conclusion of the policy (p. 21) that states the purpose of appendices and allows revision of the explanatory appendices by administrative action, consistent with the provisions of the policy. This allows, for example, for presidential appointment of additional designated officials as may be appropriate or necessary to address discriminatory harassment complaints, or updating of legal references, without each change having to go to the Board for approval.

15. Appendix A (pp. 22-23) is designed to provide an explanatory section on discriminatory harassment parallel to that provided in the existing policy for sexual harassment.

16. New language in Appendix B (pp. 23-24) recognizes that sexual harassment occurs among people of the same and of different sex.

17. New language in Appendix D (pp. 27-28) incorporates examples that apply to forms of harassment other than sexual harassment.

18. The Work Group recommends a single, comprehensive policy. On the question of whether separate sexual harassment and “other” harassment policies are preferable to a single, comprehensive policy, university legal counsel explains that some clients have wanted to have a separate sexual harassment policy (1) to highlight that discriminatory sexual harassment includes both harassment directed against a person because of sex/gender and behavior of a sexual nature, while other forms of harassment involve only behavior directed against a person because of a protected characteristic; and (2) to have a place in which to articulate policy about consensual relationships. Counsel noted that “more and more employers are going to a comprehensive anti-harassment policy” but declined to give us a common practice recommendation on this question. That we have been using a “parallel” resolution process, rather than some other process, for resolution of harassment concerns argues in favor of a comprehensive policy.

Current Policy	Proposed Policy
<p style="text-align: center;">Sexual Harassment Policy</p>	<p style="text-align: center;">DRAFT 8:</p> <p style="text-align: center;">Campus Policy Prohibiting Harassment</p> <p><u>The University of Puget Sound values and celebrates a diverse educational community based on mutual respect, trust, and responsibility. Puget Sound believes its students, faculty and all other employees should learn, teach, work, serve and lead in an environment free from harassment.</u></p> <p><u>Puget Sound is a community that encourages a rich knowledge of self and others, an appreciation of commonality and difference, the full, open, and civil discussion of ideas, thoughtful moral discourse, and the integration of learning. This community recognizes the importance of academic freedom, open exchange of ideas and creative, intellectual expression. The Campus Policy Prohibiting Harassment provides means for investigation of and response to harassment concerns, resolution of issues, and corrective action when necessary. The University encourages any person who believes he or she has been harassed to seek prompt assistance under the policy</u></p>

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<p>I. Policy Statement</p> <p>The University of Puget Sound prohibits discrimination in education or employment on the basis of sex (Equal Opportunity Statement).</p> <p>This Sexual Harassment Policy explicitly defines sexual harassment as a prohibited form of sex discrimination.</p> <p>This policy further prohibits sexual assault and other forms of nonconsensual sexual conduct. In addition, the university prohibits consensual sexual relationships between a faculty or staff member and a student whenever the faculty or staff member is in a position of professional responsibility with respect to the student.</p> <p>This policy is intended to meet and may generally exceed the requirements of applicable federal and local law. However, this policy does not provide a substitute procedure for redressing any person's legal rights, nor is the university prevented from acting to remedy a problem which could also be remedied by resort to legal action.</p> <p>II. Policy Scope and Applications</p> <p>A. Policy Scope</p> <p>This policy applies when the conduct prohibited by this policy occurs between any member of the student body, faculty, or staff and any other member of the student body, faculty, or staff. This policy also applies when the prohibited conduct occurs between a</p>	<p>I. Policy Statement</p> <p>The University of Puget Sound prohibits discrimination in education or employment on the basis of sex, <u>race, color, national origin, religion, creed, age, disability, marital or familial status, sexual orientation, veteran status, gender identity or any characteristic that is legally protected under applicable local, state or federal law.</u> This <u>Sexual Harassment Campus Policy Prohibiting Harassment</u> explicitly defines <u>harassment, including sexual harassment,</u> as a prohibited form of sex discrimination.</p> <p>This policy further prohibits sexual assault and other forms of nonconsensual sexual conduct. In addition, the university prohibits consensual sexual relationships between a faculty or staff member and a student whenever the faculty or staff member is in a position of professional responsibility with respect to the student.</p> <p>This policy is intended to meet and may generally exceed the requirements of applicable federal, <u>state</u> and local law. However, this policy does not provide a substitute procedure for redressing any person's legal rights, <u>or create legal rights separate from applicable laws.</u> <u>Additionally, the university is not prevented by this policy</u> from acting to remedy a problem <u>that</u> could also be remedied by resort to legal action.</p> <p>II. Policy Scope and Applications</p> <p>A. Policy Scope</p> <p>This policy applies when the conduct prohibited by this policy occurs between any member of the student body, faculty, or staff and any other member of the student body, faculty, or staff. This policy also applies when the prohibited conduct occurs between a</p>
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member and a nonmember of the student body, faculty, or staff, such as an off-campus vendor, independent contractor, work-study employer, internship supervisor, prospective student, or volunteer.

The university may impose sanctions if the prohibited conduct occurs on university premises or in connection with a person's participation in a university-sponsored organization, program, or activity, or if the conduct poses a risk of harm to any member of the campus community, including but not limited to any of the harmful effects encompassed by the definition of sexual harassment.

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B. Discriminatory Harassment

Discriminatory harassment consists of conduct of any type (e.g., oral, written, graphic, or physical) directed against a person (or group of persons) because of his or her (or their) sex, race, color, national origin, religion, creed, age, disability, marital or familial status, sexual orientation, veteran status, gender identity or any protected characteristic, which unreasonably interferes with the person's work or academic performance or participation in university activities, or creates a working or learning environment that a reasonable person would find threatening or intimidating.

Conflicts may arise between freedom of expression and the right of individuals to be free from harassment. For example, in the classroom or in co-curricular discussion, the university emphasizes critical and analytical thinking, the testing of opinions, and rich debate about texts and artifacts, ideas and values. Students engaged in the process of liberal arts education will likely confront uncomfortable moments and ideas that are disquieting. While students should expect to be challenged, they

<p>B. Sexual Harassment</p> <p>Sexual harassment as defined by this policy with reference to applicable equal opportunity law consists of unwelcome verbal or physical conduct of a sexual or nonsexual nature that is directed toward a person because of the person's sex, when:</p> <ol style="list-style-type: none"> 1. submission to the conduct is made either explicitly or implicitly a term or condition of a person's employment or education, or the person's submission to or rejection of the conduct is used as a basis for a decision affecting the person's employment or education (quid pro quo harassment); or 2. the conduct has the purpose or effect of unreasonably 	<p><u>also have the right to participate in educational discussion without being singled out, in any way, by race, national origin, age, religion, sexual orientation or other protected characteristics or status recognized by the university or applicable law.</u></p> <p><u>In accord with guidance provided by the Office of Civil Rights (July 29, 2003), discriminatory harassment includes something beyond the mere expression of views, words, symbols or thoughts that some person finds offensive. To be considered harassing, physical or verbal conduct must be sufficiently severe, persistent or pervasive as to limit or deny a student's ability to participate in or benefit from an educational program or an employee's ability to perform or participate in a work environment.</u></p> <p>For additional information relating to the application of this policy, see Appendix A. For additional information relating to the legal foundations for this policy, see Appendix F.</p> <p>C. Sexual Harassment</p> <p>Sexual harassment is a form of discriminatory harassment and is defined by this policy to include unwelcome verbal or physical conduct of a sexual or nonsexual nature that is directed toward a person because of the person's sex, when:</p> <ol style="list-style-type: none"> 1. submission to the conduct is made either explicitly or implicitly a term or condition of a person's employment or education, or the person's submission to or rejection of the conduct is used as a basis for a decision affecting the person's employment or education (quid pro quo harassment); or 2. the conduct has the purpose or effect of unreasonably interfering with a person's work or educational performance
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<p>interfering with a person's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment (hostile environment harassment).</p> <p>For additional information relating to the application of this policy, see Appendix A.</p> <p>C. Sexual Assault</p> <p>Sexual assault as defined by this policy with reference to applicable criminal law consists of any actual, attempted, or threatened form of nonconsensual sexual intercourse or other sexual conduct of a forcible, threatening, or otherwise nonconsensual nature. Sexual conduct is of a nonconsensual nature if the complainant objected or manifestly attempted to object to the conduct, or if his or her capacity to consent was substantially impaired by reason of physical force, threat or intimidation, lack of opportunity to object, physical or mental disability, drug or alcohol consumption, or other voluntary or involuntary cause.</p> <p>See Appendix B for additional information relating to the application of this policy.</p> <p>D. Consensual Sexual Relationships</p> <p>A consensual sexual relationship between a faculty or staff member and a student does not necessarily involve sexual harassment. However, the university's educational responsibilities to its students are potentially compromised in all such cases by the likelihood or even the appearance of a conflict of interests.</p>	<p>or creating a <u>working or learning environment that a reasonable person would find</u> intimidating, hostile, or offensive (hostile environment harassment).</p> <p>For additional information relating to the application of this policy, see Appendix B.</p> <p>C. Sexual Assault</p> <p>Sexual assault <u>is</u> defined by this policy with reference to applicable criminal law <u>and</u> consists <u>of any</u> actual, attempted, or threatened form of nonconsensual sexual intercourse or other sexual conduct of a forcible, threatening, or otherwise nonconsensual nature. Sexual conduct is of a nonconsensual nature if the complainant objected or manifestly attempted to object to the conduct, or if his or her capacity to consent was substantially impaired by reason of physical force, threat or intimidation, lack of opportunity to object, physical or mental disability, drug or alcohol consumption, or other voluntary or involuntary cause.</p> <p>See Appendix C for additional information relating to the application of this policy.</p> <p>D. Consensual Sexual Relationships</p> <p><u>A consensual sexual relationship between a faculty or staff member and a student does not necessarily involve sexual harassment. However, the university's educational responsibilities to its students are potentially compromised in all such cases by the likelihood or even the appearance of a conflict of interests. Consequently, this policy prohibits consensual sexual relationships between a faculty or staff member and a student</u></p>
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Consequently, this policy prohibits consensual sexual relationships between a faculty or staff member and a student whenever the faculty or staff member is in a position of professional responsibility with respect to the student. A faculty or staff member has a professional responsibility when he or she is currently in a position to make or influence a decision or to confer or withhold a benefit relating to the student's education or employment.

This policy does not prohibit a consensual sexual relationship between a faculty or staff member and a student in the absence of a current professional responsibility with respect to the student. Nor does this policy prohibit consensual relationships between a faculty or staff supervisor and a supervisee (unless the supervisee is a student). However, because all such relationships potentially involve a violation of equal opportunity law, it may be difficult in any internal proceeding to defend against a sexual harassment charge where the defense is based on the complainant's consent to the relationship.

III. Responsibilities

A. General

All members of the campus community have a responsibility to govern their own conduct in accordance with this policy. In addition, any person who knows about a sexual harassment problem is strongly encouraged to report it to a designated university official.

whenever the faculty or staff member is in a position of professional responsibility with respect to the student. A faculty or staff member has a professional responsibility when he or she is currently or potentially in a position to make or influence a decision or to confer or withhold a benefit relating to the student's education or employment. In accord with the university's conflict of interest provisions, this policy prohibits faculty or staff members from exercising supervisory responsibility with respect to another faculty or staff member with whom they are involved in a consensual relationship. A faculty or staff member who enters into such a consensual relationship is required to disclose the relationship to his/her superior(s) so that reassignment, alternative supervision processes, or other arrangements can be facilitated and documented.

III. Responsibilities

A. General

All members of the campus community have a responsibility to govern their own conduct in accordance with this policy. In addition, any person who knows about a harassment problem, including sexual harassment, is strongly encouraged to report it to a designated university official.

B. Supervisory Responsibilities

Supervisors are particularly responsible for helping to prevent and eliminate discriminatory harassment, including sexual harassment, in the areas they oversee. A supervisor who believes that harassment is or may be occurring must report the problem to a designated official even if the problem is not within his or her

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B. Supervisory Responsibilities

Supervisors are particularly responsible for helping to prevent and eliminate sexual harassment in the areas they oversee. A supervisor who believes that sexual harassment is or may be occurring must report the problem to a designated official even if the problem is not within his or her area of responsibility. All faculty members likewise have a supervisory responsibility to report a sexual harassment problem.

Requests for confidentiality will be respected if at all possible (see [Section IV.D](#)). Supervisors must also help to ensure that no retaliation occurs against persons who complain of sexual harassment or who cooperate with a sexual harassment investigation. Failure to comply with these supervisory responsibilities may subject the supervisor or faculty member to disciplinary action.

C. Information and Education

This policy emphasizes the importance of information and education in preventing sexual harassment. A copy of this policy will be made available to all members of the faculty, staff, and student body. In addition, all faculty, staff, and students should be regularly encouraged to participate in educational programs concerning the prevention and reporting of sexual harassment problems. Participation in such programs will be expected of academic and administrative department heads. This policy authorizes the President to appoint such advisory groups as may be needed to assist in developing appropriate educational programs and informational materials.

area of responsibility. All faculty members likewise have a supervisory responsibility to report a harassment problem. Requests for confidentiality will be respected if at all possible (see [Section IV.D](#)). Supervisors must also help to ensure that no retaliation occurs against persons who complain of sexual or other harassment or who cooperate with a harassment investigation. Failure to comply with these supervisory responsibilities may subject the supervisor or faculty member to disciplinary action.

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IV. Complaint Procedure

A. General

Anyone who has reason to believe he or she has been harassed or sexually assaulted is strongly encouraged to use this complaint procedure. Immediate response procedures for instances of sexual assault are outlined in Appendix C. Complaints may be handled informally as described below or by means of the formal procedures as provided by the [Faculty Code](#), the [Staff Policies](#)

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IV. Complaint Procedure

A. General

Anyone who has reason to believe he or she has been sexually harassed or assaulted is strongly encouraged to use this complaint procedure. Complaints may be handled informally as described below or by means of the formal procedures as provided by the [Faculty Code](#), the [Staff Policies and Procedures Manual](#), or the [Student Integrity Code](#), depending on whether the person charged is a member of the faculty, staff, or student body, respectively.

B. Retaliation and False Complaints

This policy prohibits threats, other forms of intimidation, or retaliation of any kind against a person who reports a sexual harassment problem or who cooperates with a sexual harassment investigation. Any such conduct will itself constitute a violation of this policy and may subject the offender to disciplinary action.

An intentionally false complaint will also constitute a violation of this policy and may subject the offender to disciplinary action. A complaint is not falsely reported merely because the evidence does not suffice to support a formal charge.

C. Counseling and Support Resources

1. Counseling Services

The counseling staff of [Counseling, Health and Wellness Services](#) are available to provide confidential counseling to any student who has a problem or concern with respect to sexual harassment or assault. The counseling staff also provide confidential referral services for faculty and staff.

[and Procedures Manual](#), or the [Student Integrity Code](#), depending on whether the person charged is a member of the faculty, staff, or student body, respectively.

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C. Counseling and Support Resources

1. Counseling Services

The counseling staff of [Counseling, Health and Wellness Services](#) are available to provide confidential counseling to any student who has a problem or concern with respect to discriminatory harassment, sexual harassment or sexual assault. Confidential counseling for faculty and staff is available through the university's Employee Assistance Program (EAP). The only role of the counseling staff with respect to any party to a harassment complaint will be to provide confidential counseling and emotional support. Unless otherwise required by law, a counseling staff member is not required to report a client's harassment problem to the university without the client's consent.

2. Personal Support for Parties to Complaint

The immediate parties to a harassment complaint may each

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<p>The only role of the counseling staff with respect to any party to a sexual harassment complaint will be to provide confidential counseling and emotional support. A counseling staff member is not required to report a client's sexual harassment problem to the university without the client's consent.</p> <p>2. Personal Support for Parties to Complaint</p> <p>The immediate parties to a sexual harassment complaint may each request the university to approve the designation of a person of his or her choice, such as a peer, colleague, faculty advisor, or supervisor, to provide emotional and other personal support at all times during the complaint process and after its resolution. This person may be present whenever the party is involved in any phase of an informal or formal procedure. However, he or she shall be under the same obligation as the university to maintain the confidentiality of the proceeding.</p> <p>D. Initiation of Complaint Procedure</p> <p>A faculty, staff, or student complaint may be brought to any of the following designated officials: the Academic Vice President, Associate Academic Dean, the <u>Dean of Students</u>, the <u>Associate Dean for Student Services/Title IX Compliance Officer</u>, the Associate Dean for Student Development, or the <u>Director of Human Resources/Affirmative Action Officer</u>.</p>	<p>request the university to approve the designation of a person of his or her choice, such as a peer, colleague, faculty advisor, supervisor, <u>or member of the Harassment Advisory Group</u> to provide emotional and other personal support at all times during the complaint process and after its resolution. This person may be present whenever the party is involved in any phase of an informal or formal procedure. However, he or she <u>may be requested</u> to maintain the confidentiality of the proceeding.</p> <p>See <u>Appendix E</u> for additional information relating to the application of this policy.</p> <p>D. Initiation of Complaint Procedure</p> <p>A faculty, staff, or student complaint may be brought to any of the following designated university officials <u>designated by the President (see Appendix E)</u>. the Academic Vice President, Associate Academic Dean, the Dean of Students, the Associate Dean for Student Services/Title IX Compliance Officer, the Associate Dean for Student Development, the Assistant Director of Student Development or the Director of Human Resources/Affirmative Action Officer.</p> <p><u>The university's general practice for handling complaints is as follows, recognizing that circumstances of a particular case may require some flexibility of process:</u> The official will interview the complainant and make a written summary of the interview, including the specific nature and effects of the conduct in question, the time and circumstances in which it occurred, and the names of other persons who may have relevant information. The complainant will have an opportunity to review, amend and</p>
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Complaints may also be brought to the head of the complainant's academic or administrative department, to the department head of the person behaving objectionably, or to a sexual harassment complaint ombudsperson who shall be a tenured member of the faculty appointed by the President in consultation with the Chairs of the Professional Standards and Student Life Committees of the Faculty Senate.

The role of a department head or complaint ombudsperson will be to counsel the complainant about sources of further information and assistance. If requested by the complainant, the department head or ombudsperson may assist with informal resolution efforts, or he or she may refer the complainant to one of the above designated officials. In any event, the department head or ombudsperson must promptly report the complaint to a

affirm by signature the accuracy of the statement. The investigating officer will also advise the complainant of the likely scope and nature of the complaint investigation and the procedures that will apply if formal charges are brought. In addition, the complainant will receive a copy of this policy and the appropriate faculty, staff, or student procedures.

Complaints may also be brought to the head of the complainant's academic or administrative department, to the department head of the person behaving objectionably, or to a discriminatory harassment complaint ombudsperson who shall be a tenured member of the faculty appointed by the President in consultation with the Chairs of the Professional Standards and Student Life Committees of the Faculty Senate.

The role of a department head or complaint ombudsperson will be to counsel the complainant about sources of further information and assistance. If requested by the complainant, the department head or ombudsperson may assist with informal resolution efforts, or he or she may refer the complainant to one of the above designated officials. In any event, the department head or ombudsperson must promptly report the complaint to a designated official, even if the complainant wishes to proceed informally or decides not to pursue the matter.

Complaints will be treated confidentially to the extent permitted by this policy's reporting requirements and the university's need to investigate and resolve the reported problem. If at all possible, especially during the investigation of the complaint, the complainant's identity will not be disclosed without the complainant's consent. However, disciplinary action cannot be taken without informing the respondent of the complainant's

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designated official, even if the complainant wishes to proceed informally or decides not to pursue the matter.

Complaints will be treated confidentially to the extent permitted by this policy's reporting requirements and the university's need to investigate and resolve the reported problem. If at all possible, especially during the investigation of the complaint, the complainant's identity will not be disclosed without the complainant's consent. However, disciplinary action cannot be taken without informing the respondent of the complainant's identity, unless the charges could be effectively rebutted without knowing who made them. The university may need to initiate a disciplinary action, even if the complainant does not request it, because the university has an obligation to resolve any reported sexual harassment problem.

E. Informal Resolution Procedure

1. General

In many instances, a complainant may prefer to seek an informal resolution of a sexual harassment problem, especially if the purpose in bringing the complaint is simply to put a stop to the offending behavior. A variety of informal methods may empower the complainant to achieve an effective resolution of the problem without becoming involved in a potentially lengthier, more adversarial, and less confidential formal process. However, the use of an informal process is entirely voluntary. A complainant may instead request a formal resolution procedure or terminate an informal process once it is begun and then seek a formal resolution.

identity, unless the charges could be effectively rebutted without knowing who made them. The university may need to initiate a disciplinary action, even if the complainant does not request it, because the university has an obligation to resolve any reported harassment problem, including sexual harassment.

E. Informal Resolution Procedure

1. General

In many instances, a complainant may prefer to seek an informal resolution of a harassment problem, especially if the purpose in bringing the complaint is simply to put a stop to the offending behavior. A variety of informal methods may empower the complainant to achieve an effective resolution of the problem without becoming involved in a potentially lengthier, more adversarial, and less confidential formal process. However, the use of an informal process is entirely voluntary. A complainant may instead request a formal resolution procedure or terminate an informal process once it is begun and then seek a formal resolution.

2. Informal Resolution Alternatives

A range of alternatives as outlined below may be available to resolve a discriminatory harassment problem informally. A complainant should be informed as appropriate of possible informal ways to put a stop to the offending behavior on his or her own or with the assistance of other persons. However, a complainant who is uncomfortable using any informal process is not expected and should not be encouraged to pursue it.

(1) A variety of interpersonal techniques may assist a complainant

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<p>2. Informal Resolution Alternatives</p> <p>A range of alternatives as outlined below may be available to resolve a sexual harassment problem informally. A complainant should be informed as appropriate of possible informal ways to put a stop to the offending behavior on his or her own or with the assistance of other persons. However, a complainant who is uncomfortable using any informal process is not expected and should not be encouraged to pursue it.</p> <p>(1) A variety of interpersonal techniques may assist a complainant in resolving a problem informally on his or her own. See Appendix C for examples of some of these informal methods. Alternatively, a complainant might request the university to designate a person of the complainant's choice to initiate a confidential discussion with the person whose conduct is objectionable, with or without disclosing the complainant's identity.</p> <p>(2) Either of the immediate parties to the complaint may request the designation of a mutually acceptable representative of the university to arrange and supervise an informal resolution conference. The representative's role would be to assist the parties to talk about the problem, either in person or by communicating through the representative, and to seek a mutually satisfactory resolution which shall be summarized in writing and signed by the parties and by the representative. Either party may at any time refuse to continue the informal process. The representative may also reject or terminate the informal process or reject any proposed resolution if the university determines that the process or resolution may be unfair to either party or contrary to law or university policy.</p>	<p>in resolving a problem informally on his or her own. See Appendix D for examples of some of these informal methods. Alternatively, a complainant might request the university to designate a person of the complainant's choice to initiate a confidential discussion with the person whose conduct is objectionable, with or without disclosing the complainant's identity.</p> <p>(2) Any of the immediate parties to the complaint may request the designation of a mutually acceptable representative of the university to arrange and supervise an informal resolution conference. The representative's role would be to assist the parties to talk about the problem, either in person or by communicating through the representative, and to seek a mutually satisfactory resolution which shall be summarized in writing and signed by the parties and by the representative. Any party may at any time refuse to continue the informal process. The representative may also reject or terminate the informal process or reject any proposed resolution if the university determines that the process or resolution may be unfair to either party or contrary to law or university policy.</p> <p>(3) There may be other informal processes that may help to resolve a <u>discriminatory harassment</u>, including sexual harassment, problem. Even after a formal procedure is initiated, any party to the complaint may propose an informal resolution process at any time during the formal process. A proposed resolution should not be rejected solely because it is not specifically referenced by this policy, as long as the policy is applied fairly, impartially, and consistently with the best interests of the parties and the campus community in resolving a harassment problem.</p>
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(3) There may be other informal processes that may help to resolve a sexual harassment problem. Even after a formal procedure is initiated, any party to the complaint may propose an informal resolution process at any time during the formal process. A proposed resolution should not be rejected solely because it is not specifically referenced by this policy, as long as the policy is applied fairly, impartially, and consistently with the best interests of the parties and the campus community in resolving a sexual harassment problem.

F. Formal Resolution Procedure

1. Initiation of Formal Procedure

A formal procedure may be initiated on the complainant's or the university's own behalf by any of the following designated officials: the Academic Vice President, Associate Academic Dean, the Dean of Students, the Associate Dean for Student Services/Title IX Compliance Officer, the Associate Dean for Student Development, or the Director of Human Resources/ Affirmative Action Officer.

The initiation of a formal procedure is timely if the complaint is brought within any applicable time limitation as provided by the relevant faculty, staff, or student procedures. A complaint is also presumptively timely if it is brought within 180 days of the alleged violation, and is presumptively untimely if it is not brought within this time, but the university will consider all facts and circumstances, including the longer time limits provided by applicable civil or criminal law. All persons are encouraged to

F. Formal Resolution Procedure

1. Initiation of Formal Procedure

A formal procedure may be initiated on the complainant's or on the university's own behalf by any of the following designated officials designated by the President (see Appendix E). ~~the Academic Vice President, Associate Academic Dean, the Dean of Students, the Associate Dean for Student Services/Title IX Compliance Officer, the Associate Dean for Student Development, the Assistant Director for Student Development or the Director of Human Resources/ Affirmative Action Officer.~~

~~The initiation of a formal procedure is timely if the complaint is brought within any applicable time limitation as provided by the relevant faculty, staff, or student procedures. A complaint is also presumptively timely if it is brought within 180 days of the alleged violation, and is presumptively untimely if it is not brought within this time, but the university will consider all facts and circumstances, including the longer time limits provided by applicable civil or criminal law. All persons are encouraged to bring a complaint to the attention of a designated official even if it is beyond 180 days. Any time limitation for initiating a formal procedure may be extended during an informal resolution process, provided that the initial complaint is reported to a designated official within any allowable time limit.~~

2. Complaint Investigation

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bring a complaint to the attention of a designated official even if it is beyond 180 days. Any time limitation for initiating a formal procedure may be extended during an informal resolution process, provided that the initial complaint is reported to a designated official within any allowable time limit.

2. Complaint Investigation

The official initiating a formal procedure will interview the complainant and make a written summary of the interview, including the specific nature and effects of the conduct in question, the time and circumstances in which it occurred, and the names of other persons who may have relevant information. The complainant will have an opportunity to review and amend the statement. The investigating officer will also advise the complainant of the likely scope and nature of the complaint investigation and the procedures that will apply if formal charges are brought. In addition, the complainant will receive a copy of this policy and the appropriate faculty, staff, or student procedures.

The investigating officer will promptly notify the respondent of the nature and circumstances of the complaint. The officer will advise the respondent that the complaint is being investigated and that formal charges may result. The respondent will have an opportunity to meet with the investigating officer and will also receive a copy of this policy and the appropriate faculty, staff, or student procedures. In meeting with the respondent, the investigating officer will review the alleged grounds for the complaint and will make a written summary of the interview, including the specific facts and circumstances as related by the respondent and the names of other persons who may have

The investigating officer will endeavor to promptly notify the respondent of the nature and circumstances of the complaint. The officer will advise the respondent that the complaint is being investigated and that formal charges could result. The university's general practice for working with respondents to complaints is as follows, recognizing that circumstances of a particular case may require some flexibility of process: The respondent will have an opportunity to meet with the investigating officer and will also receive a copy of this policy and the appropriate faculty, staff, or student procedures. In meeting with the respondent, the investigating officer will review the alleged grounds for the complaint and will make a written summary of the interview, including the specific facts and circumstances as related by the respondent and the names of other persons who may have relevant information. The respondent will have an opportunity to review and provide input to the interview summary.

The investigating officer will endeavor to promptly conduct a thorough investigation, making a reasonable effort to consult known sources of relevant information. Reasonable efforts should

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<p>relevant information. The respondent will have an opportunity to review and amend the statement.</p> <p>The investigating officer will promptly conduct a thorough investigation, making a reasonable effort to consult known sources of relevant information. The parties to the complaint will be kept informed of the progress of the investigation. The determination as to whether charges will be brought as a result of the investigation will be made by the official as provided by the applicable faculty, staff, or student procedures. The official making this determination will consider all relevant information discovered as a result of the investigation.</p> <p>If charges are brought, the respondent will be notified of the specific charges, the formal procedures that will apply, and the sanctions that could be imposed if a violation is found. The notice will specify a reasonable time for answering the charges and will schedule a date for a formal proceeding as soon as practicable after the time expires for the respondent to answer. The respondent may propose a different date for good cause by including the request in his or her answer. A violation may be found in default of the respondent's answer or appearance at the scheduled proceeding. If no charges are brought, the respondent and the complainant will both be notified that the respondent will not be charged based on the known facts as disclosed by the investigation. At the respondent's request, the university will</p>	<p>be made to keep the parties informed of the progress of the investigation. The determination as to whether charges will be brought as a result of the investigation will be made by the official as provided by the applicable faculty, staff, or student procedures. The official making this determination will consider all relevant information discovered as a result of the investigation.</p> <p>If charges are brought, the respondent will be notified of the specific charges, the formal procedures that will apply, and the sanctions that could be imposed if a violation is found. The notice will specify a reasonable time for answering the charges and will schedule a date for a formal proceeding as soon as practicable after the time expires for the respondent to answer. The respondent may propose a different date for good cause by including the request in his or her answer. A violation may be found if the respondent fails to answer or appear at the scheduled proceeding.</p> <p>If no charges are brought, the respondent and the complainant will both be notified that the respondent will not be charged based on the known facts as disclosed by the investigation. At the respondent's request, the university will similarly notify any other persons who were involved in the investigation.</p> <p>3. Formal Hearing Procedure</p> <p>Any person formally charged with a violation of this policy will be afforded an opportunity for a fair and impartial hearing. The applicable procedure will be as provided under the <u>Faculty Code</u>, <u>Staff Policies and Procedures Manual</u>, or <u>Student Integrity Code</u>, depending on whether the respondent is a member of the faculty, staff, or student body, respectively. Following are references to</p>
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similarly notify any other persons who were involved in the investigation.

3. Formal Hearing Procedure

Any person formally charged with a violation of this policy will be afforded an opportunity for a fair and impartial hearing. The applicable procedure will be as provided under the [Faculty Code](#), [Staff Policies and Procedures Manual](#), or [Student Integrity Code](#), depending on whether the respondent is a member of the faculty, staff, or student body, respectively. Following are references to the applicable provisions of those documents:

a. Complaint Against a Faculty Member

A faculty member's violation of this policy constitutes a breach of his or her contract of employment with reference to the applicable substantive provisions of [Chapter I](#) of the Faculty Code. A complaint against a faculty member may be formally adjudicated pursuant to the grievance procedures of [Chapter VI](#) or the dismissal procedures of [Chapter V](#) of the Faculty Code.

Because the conduct prohibited by this policy and by applicable civil or criminal law is inconsistent with the university's purpose to provide a nondiscriminatory and safe working and learning environment, such conduct is neither condoned nor protected by the principles of academic freedom, and this policy, therefore, does not in any way alter or qualify the protections of academic freedom as provided by the [Faculty Code](#).

b. Complaint Against a Staff Member

A staff member's violation of this policy constitutes a violation of

the applicable provisions of those documents:

a. Complaint Against a Faculty Member

A faculty member's violation of this policy constitutes a breach of his or her contract of employment with reference to the applicable substantive provisions of [Chapter I](#) of the Faculty Code. A complaint against a faculty member may be formally adjudicated pursuant to the grievance procedures of [Chapter VI](#) or the dismissal procedures of [Chapter V](#) of the Faculty Code.

Because the conduct prohibited by this policy, and possibly by applicable civil or criminal law, is inconsistent with the university's purpose to provide a nondiscriminatory and safe working and learning environment, such conduct is neither condoned nor protected by the principles of academic freedom, and this policy, therefore, does not in any way alter or qualify the protections of academic freedom as provided by the [Faculty Code](#).

b. Complaint Against a Staff Member

A staff member's violation of this policy constitutes a violation of the conditions of his or her employment. A complaint against a staff member may be formally addressed through the corrective action policy of the [Staff Policies and Procedures Manual](#).

c. Complaint Against a Student

A violation of this policy by a student constitutes a violation of Standard 6 of the [Student Integrity Code](#) and may also violate one or more other substantive code provisions. A complaint against a student may be formally adjudicated pursuant to the procedural

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the conditions of his or her employment. A complaint against a staff member may be formally adjudicated pursuant to the corrective action policy of the [Staff Policies and Procedures Manual](#).

c. Complaint Against a Student

A violation of this policy by a student constitutes a violation of Standard 6 of the [Student Integrity Code](#) and may also violate one or more other substantive code provisions. A complaint against a student may be formally adjudicated pursuant to the procedural provisions of the student code.

d. Procedural Rules of General Applicability

For purposes of adjudicating a complaint alleging a violation of this policy, the above referenced formal procedures will be supplemented to the following extent:

(1) General. The applicable procedure will be conducted fairly, impartially, and with the purpose of discovering the truth. However, formal rules of procedure and evidence used in courts of law will not apply. Except as provided below, any evidence, including hearsay evidence, may be considered if it will assist the applicable fact finder in discovering the truth and is not unduly prejudicial to any party.

provisions of the student code.

d. Procedural Rules of General Applicability

For purposes of adjudicating a complaint alleging a violation of this policy, the above referenced formal procedures will be supplemented to the following extent:

(1) General. The applicable procedure will be conducted fairly, impartially, and with the purpose of discovering the truth. However, formal rules of procedure and evidence used in courts of law will not apply. Except as provided below, any evidence, including hearsay evidence, may be considered if it will assist the applicable fact finder in discovering the truth and is not unduly prejudicial to any party.

(2) While the procedures of the Student Integrity Code provide the respondent in a conduct case the opportunity to meet with the hearing officer or the hearing body, the complainant in a formal harassment resolution process may elect to meet with the hearing officer or hearing body as part of the hearing process.

(3) Burden of Proof. A finding of a violation of this policy requires proof that the allegations are more likely true than not true (preponderance of the evidence). A violation may be found based solely on the statements of the person by or on whose behalf the complaint is brought.

(4) Consent as Defense. Consent is not a defense in a sexual harassment or sexual assault complaint if the complaint concerns a student with respect to whom a faculty or staff respondent was in a position of professional responsibility at the time of the alleged misconduct. Consent may be available as an affirmative

<p>(2) Burden of Proof. A finding of a violation of this policy requires proof that the allegations are more likely true than not true (preponderance of the evidence). A violation may be found based solely on the statements of the person by or on whose behalf the complaint is brought.</p>	<p>defense in some, but not necessarily all, other circumstances. Where the defense is available, the respondent will bear the burden of proving that the alleged conduct was of a consensual nature or that he or she in good faith reasonably believed that the complainant consented to the conduct.</p>
<p>(3) Consent as Defense. Consent is not a defense if the complaint concerns a student with respect to whom a faculty or staff respondent was in a position of professional responsibility at the time of the alleged misconduct. Consent may be available as an affirmative defense in some, but not necessarily all, other circumstances. Where the defense is available, the respondent will bear the burden of proving that the alleged conduct was of a consensual nature or that he or she in good faith reasonably believed that the complainant consented to the conduct.</p>	<p>(5) Character Evidence. Evidence of a party's character is <u>generally</u> not admissible to prove conduct in conformity with that character on the occasion in question, except that either party may submit evidence of his or her good character. Evidence of the complainant's past sexual conduct is specifically inadmissible to prove consent on the occasion in question, unless the evidence concerns prior sexual conduct with the respondent. Prior conduct or other evidence of character is otherwise admissible for any relevant purpose and as fairness may require.</p>
<p>(4) Character Evidence. Evidence of a party's character is not admissible to prove conduct in conformity with that character on the occasion in question, except that either party may submit evidence of his or her good character. Evidence of the complainant's past sexual conduct is specifically inadmissible to prove consent on the occasion in question, unless the evidence concerns prior sexual conduct with the respondent. Prior conduct or other evidence of character is otherwise admissible for any relevant purpose and as fairness may require.</p>	<p>(6) Unavailable Witness. The parties to the proceeding may question any witness to the extent permitted by the applicable procedure. However, a witness who is unable or unwilling to appear may offer evidence by means of a signed statement which need not be notarized. An unavailable witness may be examined by means of written responses to questions posed by either of the parties or by the factfinder. If the factfinder cannot evaluate the evidence without requiring the presence of the witness, the offered evidence <u>may</u> be excluded if his or her presence cannot be obtained.</p>
<p>(5) Unavailable Witness. The parties to the proceeding may question any witness to the extent permitted by the applicable procedure. However, a witness who is unable or unwilling to appear may offer evidence by means of a signed statement which need not be notarized. An unavailable witness may be examined</p>	<p>(7) Confidentiality. Formal proceedings will be closed to the public. The university will exert its best efforts to maintain the confidentiality of the proceeding and to protect the privacy of the immediate parties to the complaint. However, the immediate parties will both be notified in writing of the factfinder's decision</p>

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by means of written responses to questions posed by either of the parties or by the factfinder. If the factfinder cannot evaluate the evidence without requiring the presence of the witness, the offered evidence will be excluded if his or her presence cannot be obtained.

(6) Confidentiality. Formal proceedings will be closed to the public. The university will exert its best efforts to maintain the confidentiality of the proceeding and to protect the privacy of the immediate parties to the complaint. However, the immediate parties will both be notified in writing of the factfinder's decision and the nature of any sanctions imposed.

4. Sanctions

The applicable decisionmaker may impose any one or more sanctions as appropriate in the circumstances. In imposing sanctions, the decisionmaker will consider the nature, frequency, and severity of the offending conduct, the resulting harm to other persons or to the campus community, the respondent's past disciplinary record at the university, and the likelihood of future harm to other persons or to the campus community. Sanctions should be imposed to serve a corrective rather than merely punitive purpose.

a. Student Sanctions

Sanctions that may be imposed upon a student include but are not limited to:

1. official reprimand, including a warning of the possible consequences of further violations;

and the nature of any sanctions imposed.

4. Sanctions

The applicable decisionmaker may impose any one or more sanctions as appropriate in the circumstances. In imposing sanctions, the decisionmaker will consider the nature, frequency, and severity of the offending conduct, the resulting harm to other persons or to the campus community, the respondent's past disciplinary record at the university, and the likelihood of future harm to other persons or to the campus community. Sanctions should be imposed to serve a corrective rather than merely punitive purpose.

a. Student Sanctions

Sanctions that may be imposed upon a student include but are not limited to:

1. official reprimand, including a warning of the possible consequences of further violations;
2. conduct probation, during which period of time the student may not participate in cocurricular activities;
3. permanent eviction from university housing;
4. conduct suspension, consisting of a temporary separation of the student from the university;
5. any one or more other corrective sanctions as appropriate, such as an apology to persons harmed, or participation in an appropriately designed educational or other appropriate

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<ol style="list-style-type: none"> 2. conduct probation, during which period of time the student may not participate in cocurricular activities; 3. permanent eviction from university housing; 4. conduct suspension, consisting of a temporary separation of the student from the university; 5. any one or more other corrective sanctions as appropriate, such as an apology to persons harmed, mandatory counseling, or participation in an appropriately designed educational program; 6. permanent expulsion from the university. <p>b. Faculty or Staff Sanctions</p> <p>Sanctions that may be imposed upon a faculty or staff member include but are not limited to:</p> <ol style="list-style-type: none"> 1. official reprimand, including a warning of the possible consequences of further violations; 2. restrictions on participation in campus activities or forfeiture of a benefit, honor, leadership position, or other privilege enjoyed by virtue of the person's membership of the faculty or staff; 3. transfer, demotion, or forfeiture of promotion or salary increase; 4. suspension or mandatory leave of absence; 5. any one or more other corrective sanctions as appropriate, 	<p><u>counseling</u> program;</p> <ol style="list-style-type: none"> 6. permanent expulsion from the university. <p>b. Faculty or Staff Sanctions</p> <p>Sanctions that may be imposed upon a faculty or staff member include but are not limited to:</p> <ol style="list-style-type: none"> 1. official reprimand, including a warning of the possible consequences of further violations; 2. restrictions on participation in campus activities or forfeiture of a benefit, honor, leadership position, or other privilege enjoyed by virtue of the person's membership of the faculty or staff; 3. transfer, demotion, or forfeiture of promotion or salary increase; 4. suspension or mandatory leave of absence; 5. any one or more other corrective sanctions as appropriate, such as an apology to persons harmed, <u>participation in an appropriately designed educational or counseling</u> program; 6. termination of employment. <p>G. Records Retention and Disclosure</p> <p>The university will retain a confidential record of any harassment complaint and its final disposition. The existence and contents of this record may not be publicly disclosed by the university without the written consent of the person about whom the</p>
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such as an apology to persons harmed, mandatory counseling, or participation in an appropriately designed educational program;

6. termination of employment.

G. Records Retention and Disclosure

The university will retain a confidential record of any sexual harassment complaint and its final disposition. The existence and contents of this record may not be publicly disclosed by the university without the written consent of the person about whom the information is sought, except as permitted by the Family Educational Rights and Privacy Act or as required by a valid court order. The complaint record may otherwise be used by the university for legitimate internal purposes relating exclusively to the enforcement of this policy.

V. Policy Approval and Amendments

This Sexual Harassment Policy and any subsequent amendments shall be adopted by the Board of Trustees upon recommendation by the President. This policy as approved or amended shall supersede any prior policy statements concerning sexual harassment or other prohibited sexual conduct.

Origination Date: 1/1983

Revised: 2/6/98

Owner: President's Cabinet

Contact: Assistant to the President/Secretary of the Corporation

information is sought, except as permitted by the Family Educational Rights and Privacy Act or as required by legal process, including valid court order. The complaint record may otherwise be used by the university for legitimate internal purposes relating exclusively to the enforcement of this policy.

V. Policy Approval and Amendments

This Campus Policy Prohibiting Harassment and any subsequent amendments shall be adopted by the Board of Trustees upon recommendation by the President. This policy as approved or amended shall supersede any prior policy statements concerning harassment, including sexual harassment or other prohibited sexual conduct.

Appendices to the Campus Policy Prohibiting Harassment provide explanatory guidance for the policy and may be amended administratively, consistent with the provisions of the policy.

APPENDIX A

Discriminatory Harassment Comments and Examples

Discriminatory harassment denigrates or shows hostility or aversion toward an individual or group because of a legally protected status or characteristic. Such conduct is often motivated by strong feelings against a group of persons. To be a victim of any harassment or violence is unacceptable, but to suffer such abuse because of one's identity compounds the victimization. The impact of discriminatory harassment extends beyond the individual who is targeted to all members of the group.

Examples of behavior that could be reported for review under this policy include:

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Directing racial or ethnic slurs at someone.
Telling someone repeatedly that they are too old to understand new technology.
Teasing or mocking a person with a disability.
Ridiculing a person's religious beliefs.
Vandalizing or defacing property.
Placing derogatory written or visual material on the door of an individual's living or work area.
Chalking anti-Semitic language on a campus sidewalk or parking lot.
Stalking or physically assaulting someone.
Making threatening telephone calls, writing threatening email messages, or leaving threatening voice mail messages.

The purpose of this policy is to protect students and employees from invidious discrimination, not to regulate the content of speech. A particular expression, standing alone, need not establish a hostile environment. The policy is not a speech code and does not proscribe particular words or viewpoints. Rather, conduct of concern under this policy will be evaluated from the perspective of a reasonable person in the complainant's position, considering all of the circumstances in which the conduct occurred.

APPENDIX B

Sexual Harassment Comments and Examples

1. Quid Pro Quo Harassment

In the case of quid pro quo harassment, the harasser is usually someone, whether of the same sex or of a different sex, with the

<p>APPENDIX A</p> <p>Policy Comments and Examples</p> <p>1. Quid Pro Quo Harassment</p> <p>In the case of quid pro quo harassment, the harasser is usually someone with the formal authority or power to make or influence a decision affecting the person's employment or education. A single instance of quid pro quo harassment may result in the imposition of any sanction, including the dismissal of a faculty or staff member or the expulsion of a student.</p> <p>Following are some examples of conduct that may constitute quid pro quo harassment:</p> <p>(a) Granting or denying an employment or education related benefit, such as a promotion, work assignment, course grade, or letter of recommendation, because of a person's submission or refusal to submit to a sexual advance, request for sexual favors, or other sexual conduct;</p> <p>(b) Stating or implying that a person's submission or refusal to submit to sexual conduct will result in the person's receipt or denial of an employment or educational benefit.</p>	<p>formal authority or power to make or influence a decision affecting the person's employment or education. A single instance of quid pro quo harassment may result in the imposition of any sanction, including the dismissal of a faculty or staff member or the expulsion of a student.</p> <p>Following are some examples of conduct that may constitute quid pro quo harassment:</p> <p>(a) Granting or denying an employment or education related benefit, such as a promotion, work assignment, course grade, or letter of recommendation, because of a person's submission or refusal to submit to a sexual advance, request for sexual favors, or other sexual conduct;</p> <p>(b) Stating or implying that a person's submission or refusal to submit to sexual conduct will result in the person's receipt or denial of an employment or educational benefit.</p> <p>2. Hostile Environment Harassment</p> <p>The harasser in the hostile environment situation can be a person <u>of the same sex or of a different sex</u> in a position of formal authority or power, but can also be a co-worker, peer, or even a subordinate of the person harassed. This type of harassment generally involves repeated behavior or a pattern of offensive conduct <u>that interferes with the victim's access to the educational or employment opportunities of the institution</u>. However, the university may remedy any improper conduct, and a single instance of hostile environment harassment, if sufficiently serious, could result in the dismissal of a faculty or staff member or the expulsion of a student.</p>
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<p>2. Hostile Environment Harassment</p> <p>The harasser in the hostile environment situation can be a person in a position of formal authority or power, but can also be a co-worker, peer, or even a subordinate of the person harassed. This type of harassment generally involves repeated behavior or a pattern of offensive conduct. However, the university may remedy any improper conduct, and a single instance of hostile environment harassment, if sufficiently serious, could result in the dismissal of a faculty or staff member or the expulsion of a student.</p> <p>Following are some examples of conduct that may constitute hostile environment harassment:</p> <p>(a) Deliberate and unwanted hugging, kissing, pinching, brushing, patting, or other intimate touching of a person's body;</p> <p>(b) Persistent and unwelcome sexual flirtations, advances or propositions of a sexual nature, or requests for dates or sex;</p> <p>(c) Repeated and unwelcome remarks, written notes, gestures, or jokes of a sexually suggestive nature, unwelcome remarks about a person's appearance, or gratuitous descriptions or requests for descriptions of personal sexual experiences or desires;</p> <p>(d) The repeated and unwelcome use of belittling, demeaning, or abusive language with reference to the sex of a person or group, or the unwelcome, unreasonable, and offensive display of sexually suggestive or abusive objects, pictures, or illustrations, to</p>	<p>Following are some examples of conduct that may constitute hostile environment harassment:</p> <p>(a) Deliberate and unwanted hugging, kissing, pinching, brushing, patting, or other intimate touching of a person's body;</p> <p>(b) Persistent and unwelcome sexual flirtations, advances or propositions of a sexual nature, or requests for dates or sex;</p> <p>(c) Repeated and unwelcome remarks, written notes, gestures, or jokes of a sexually suggestive nature, unwelcome remarks about a person's appearance, or gratuitous descriptions or requests for descriptions of personal sexual experiences or desires;</p> <p>(d) The repeated and unwelcome use of belittling, demeaning, or abusive language with reference to the sex of a person or group, or the unwelcome, unreasonable, and offensive display of sexually suggestive or abusive objects, pictures, or illustrations, to the extent that such language or displays are prohibited by equal opportunity law and are not protected by academic freedom;</p> <p>(e) Hazing, pranks, or other intimidating, harmful, or offensive sexual or nonsexual behaviors directed toward a person or group because of the sex of the person or group;</p> <p>(f) Sexual assault and other forms of nonconsensual sexual conduct.</p> <p>3. Unwelcome Conduct</p> <p>Whether conduct is unwelcome depends on the point of view of the person to whom the conduct is directed. It is generally better for the person harassed to make it clear that the conduct is</p>
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(f) Sexual assault and other forms of nonconsensual sexual conduct.

3. Unwelcome Conduct

Whether conduct is unwelcome depends on the point of view of the person to whom the conduct is directed. It is generally better for the person harassed to make it clear that the conduct is unwelcome when the conduct occurs, since this may stop the harassment before it becomes more serious and will also serve as evidence that the conduct occurred and was unwelcome. Nevertheless, the conduct may be found to be unwelcome even if the person did not manifestly object to it.

4. Hostile or Offensive Environment

Conduct creates an intimidating, hostile, or offensive environment if objective, reasonable persons would find the environment offensive to them if they were of the same sex and in the same circumstances as the person to whom the conduct was directed. This means that conduct may be prohibited even if the person engaging in the conduct did not intend it to be sexually harassing.

5. Sexual or Nonsexual Conduct

Conduct need not be sexual in nature to be sexually harassing. The conduct may constitute sexual harassment if it is directed toward a person because of his or her sex. A typical example is

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5. Sexual or Nonsexual Conduct

Conduct need not be sexual in nature to be sexually harassing. The conduct may constitute sexual harassment if it is directed toward a person because of his or her sex. A typical example is where a female joins a traditionally male work crew or a male joins a traditionally female secretarial staff, and co-workers refuse to cooperate or even communicate with the non-traditional staff member because of the staff member's sex. Conversely, conduct is not sexually harassing if it is neither sexual in nature nor directed toward a person because of his or her sex.

APPENDIX C

Sexual Assault Response Procedures

This Sexual Harassment Policy prohibits all forms of rape, sexual assault, and other forcible and nonforcible sexual offenses of a criminal nature. Following is an outline of the university's

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APPENDIX B

Sexual Assault Response Procedures

This Sexual Harassment Policy prohibits all forms of rape, sexual assault, and other forcible and nonforcible sexual offenses of a criminal nature. Following is an outline of the university's procedures for reporting and responding to a criminal sex offense:

1. The crime should be reported immediately to Campus Security. The victim also has the option to notify the Tacoma Police Department, whether or not the offense is reported to Campus Security. If the victim so desires, the university will assist in notifying the police.
2. The victim should be encouraged to seek immediate medical attention. A prompt medical examination is important to check for possible injuries or infection and to collect medical evidence needed in the event of a criminal prosecution.
3. The victim should also be encouraged to seek personal counseling and support from Counseling, Health, and Wellness Services, the Pierce County Sexual Assault Crisis Center, or another counseling service of the victim's choice.

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2. The victim should be encouraged to seek immediate medical attention. A prompt medical examination is important to check for possible injuries or infection and to collect medical evidence needed in the event of a criminal prosecution.
3. The victim should also be encouraged to seek personal counseling and support from Counseling, Health, and Wellness Services, the Pierce County Sexual Assault Crisis Center, or another counseling service of the victim's choice.
4. The victim should be informed of the option to report the offense to a designated campus official in accordance with this Sexual Harassment Policy, if applicable.
5. If the victim so desires, the university will make alternative campus housing and academic arrangements as may be appropriate and reasonably available in the circumstances.

For additional information about these procedures, contact any of the designated officials as provided by the Campus Policy Prohibiting Harassment. The University of Puget Sound provides various educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses. Contact the Office of the Dean of Students for information about these programs.

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APPENDIX C

Informal Resolution Alternatives

Following are some of the possible ways in which a complainant might be assisted in resolving a sexual harassment problem on his or her own.

(1) The complainant might be empowered to handle uncomfortable situations personally by using a variety of interpersonal techniques, such as the following:

Deal with the situation immediately. Don't equivocate. Simply tell the person, "What you are doing makes me uncomfortable," or "I don't like to be touched, please don't do it." Describe what is happening while it is happening: "You have your hands on my shoulders," or "This is the second time today you've brushed

APPENDIX D

Informal Resolution Alternatives

Following are some of the possible ways in which a complainant might be assisted in resolving a harassment problem on his or her own.

(1) The complainant might be empowered to handle uncomfortable situations personally by using a variety of interpersonal techniques, such as the following:

Deal with the situation immediately. Don't equivocate. Simply tell the person, "What you are doing makes me uncomfortable," or "I don't like to be touched, please don't do it." Describe what is happening while it is happening: "Two comments disparaging of Latinas were made in class today (specify) and you did not confront those comments in any way" or "This is the second time today you've brushed against my body when you walked by."

Don't smile at the harasser. Don't look down or away. Stare right back. Don't let the harasser get too close or lean on you. Stand up or move away. Avoid gestures that might be perceived as defensive and appeasing. Don't ask the harasser for personal advice, and don't answer personal questions. Keep dealings with the person on a strictly professional level.

Leave a copy of this Campus Anti-Harassment Policy on the harasser's desk and highlight the part that describes what he or she

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against my body when you walked by."

Don't smile at the harasser. Don't look down or away. Stare right back. Don't let the harasser get too close or lean on you. Stand up or move away. Avoid gestures that might be perceived as defensive and appeasing. Don't ask the harasser for personal advice, and don't answer personal questions. Keep dealings with the person on a strictly professional level.

If there is a significant age difference between you and the harasser, try asking how the harasser would feel if his or her own child were treated this way. Or ask how the harasser would feel about answering a question about his or her conduct from a professional colleague, a supervisor, or a news media reporter.

Leave a copy of this Sexual Harassment Policy on the harasser's desk and highlight the part that describes what he or she is doing to you.

(2) Alternatively, the complainant might be encouraged and supported to try resolving the problem by initiating a conversation about it directly with the person whose conduct is objectionable. The complainant may wish to do this on his or her own or in the company of another person.

(3) The complainant might also write a confidential letter to the person whose conduct is objectionable. The letter should contain an objective description of the offending conduct, a statement of how the writer feels about it, and a demand that it stop. The letter should be sent by certified mail, but copies should not be sent to anyone else since this may defeat the purpose in achieving an effective, confidential resolution of the problem. However, the

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APPENDIX E

Officers Who Receive Harassment Complaints

The University officials currently designated by the President to receive harassment complaints are the Academic Vice President, Associate Academic Dean, the Dean of Students, the Associate Dean for Student Services/Title IX Compliance Officer, the Associate Dean for Student Development/Judicial Officer, the Assistant Director for Student Development/Judicial Coordinator, and the Associate Vice President for Human Resources/Affirmative Action Officer.

Support Persons

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writer should keep a copy of the letter and the return receipt as evidence in case the behavior recurs.

In addition to the usual sources of support (Dean of Students Office, Residential Life staff, Counseling Center, University Chaplain, faculty members, Academic Vice Presidents Office, Human Resources Department), Puget Sound has a Harassment Response Committee appointed by the President to assist in developing appropriate educational programs and informational materials related to harassment issues. Membership of the group includes the University's Title IX Compliance Officer and the Affirmative Action Officer, four students, two faculty members (one of whom may be the faculty ombudsperson), and two staff members who are not designated officials under this policy. Members of the group, all volunteers, are trained to assist complainants and respondents as support persons in responding to inquiries about harassment and/or in informal and formal resolution processes. The names and telephone numbers of the Harassment Response Committee and designated officials who receive harassment complaints are normally provided in *The Logger* (both web and print) and can be obtained from the Dean of Students Office, the Academic Vice Presidents Office, the Human Resources Department, the President's Office, or the Security Services Department.

APPENDIX F

Legal Foundations for the Campus Policy Prohibiting Harassment

City of Tacoma Code Chapter 1.29 prohibits discrimination based on race, color, religion, sex, gender identity, sexual orientation, age, national origin or ancestry, marital status, familial status, or the presence of any sensory mental, or physical

	<p>handicap.</p> <p>Washington State Law Against Discrimination (RCW Chapter 49.60; regulations in the Washington Administrative Code 162-04-10 <i>et seq.</i>) prohibits employment discrimination on the basis of age, race, sex, disability, marital status, national origin and creed.</p> <p>Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e) <i>et seq.</i>; regulations in 29 C.F.R. 1604 (sex), 1605 (religion) and 1606 (national origin) prohibits employment discrimination based on race, color, religion, sex or national origin, as amended by the Civil Rights Act of 1991.</p> <p>Civil Rights Acts of 1866 and 1871 (42 U.S.C. 1981 and 1986) provide a federal statutory remedy for certain kinds of discrimination independent of Title VII; Section 1981 applied to discrimination on the basis of race, color and probably national origin; Sections 1985 and 1986 prohibit conspiracies to deprive a person or class of persons of the equal protection of the laws or the right to vote or to support a candidate.</p> <p>Equal Pay Act of 1963 (29 U.S.C. 206(d)) makes it unlawful for an employer to pay different wages for equal work based on an employee's sex.</p> <p>Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 <i>et seq.</i>) prohibits discrimination in employment against individuals over the age of 40.</p> <p>Americans With Disabilities Act (42 U.S.C. 1201 <i>et seq.</i>) extends broad federal civil rights protection to Americans with</p>
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	<p>disabilities.</p> <p>Bankruptcy Act (11 U.S.C. 525) makes it unlawful for any employer to terminate an employee or to discriminate against an employee who has been a debtor or filed for bankruptcy or failed to pay a debt that was discharged in bankruptcy under the Bankruptcy Act.</p> <p>Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 <i>et seq.</i>) prohibits discrimination based on membership or service in the Armed Forces, the Army National Guard, the Air National Guard or the commissioned corps of the Public Health Service.</p> <p>Executive Order 11246, Amended by Executive Order 11375 prohibits discrimination by government contractors on the basis of race, color, religion, sex or national origin.</p> <p>Immigration Reform and Control Act of 1986 prohibits employers from knowingly hiring “unauthorized aliens” from engaging in “unfair immigration-related employment practices.” It prohibits discrimination against any individual (other than an “unauthorized alien”) because of national origin or citizenship status.</p> <p>Title IX of the Education Amendments of 1972 which provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefit of or be subjected to discrimination under any program or activity receiving federal financial assistance.</p>
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	<p>Rehabilitation Act of 1973 (29 U.S.C. 793 <i>et seq.</i>) prohibits discrimination by government contractors on the basis of mental or physical disability.</p> <p>Executive Order 11141 prohibits discrimination by government contractors based on age.</p> <p>Age Discrimination in Federally Assisted Programs Act of 1975 (42 U.S.C. 6101 <i>et seq.</i>) provides that no person shall, on the basis of age, be excluded from participation in, be denied the benefit of or be subjected to discrimination under any program or activity receiving federal financial assistance.</p> <p>The Vocational Rehabilitation Act of 1973 (Vietnam Era Veterans) and Veterans Readjustment Act of 1974 (38 U.S.C. 2011 <i>et seq.</i>) which prohibits discrimination by government contractors on the basis of Vietnam era veteran status or disabled veteran status.</p> <p>The Civil Rights Restoration Act of 1988 provides that if any part of a covered institution receives federal funding, then all of the operations of the institution are subject to civil rights statutes. The statutes collectively provide that such institutions must not exclude, deny benefits to, or discrimination against any person because of race, color, national origin, sex, handicap, or age.</p>
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