

TEMPLE UNIVERSITY

POLICIES AND PROCEDURES MANUAL

Title: Preventing and Addressing Sexual Harassment
Policy Number: 04.82.01
Issuing Authority: Office of the President
Responsible Officer: University Counsel

Date Created: September 10, 1992
Date Last Amended/Reviewed: July 2017
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Reviewing Office: Office of University Counsel

Scope of Policy & Rationale:

Temple University is committed to providing a learning and working environment that emphasizes the dignity and worth of every member of its community, free from discriminatory conduct. Sexual harassment in any form or context is contrary to this commitment and will not be tolerated. Sexual harassment subverts the mission and the work of the university, and can threaten the career, educational experience, and well-being of students, faculty, and staff.

The university recognizes that sexual harassment includes harassment based on gender, sexual orientation, gender identity, or gender expression and may occur regardless of the formal position or status of each person involved. Sexual harassment is especially offensive, however, when it occurs in relationships between teacher and student or between supervisor and subordinate. In those situations, sexual harassment unfairly exploits the power inherent in the position of the faculty member or supervisor.

This policy also reflects the university's commitment to educate, counsel, and train all of the members of the university community about the nature of sexual harassment, its impact on individuals and the university community as a whole, and the steps necessary to combat it.

Sexual harassment also constitutes a form of sex discrimination which is illegal under Title VII of the Civil Rights Act of 1964, Title IX of the Elementary/Secondary Education Act of 1972, and state law. The University's Title IX Coordinator is Andrea Caporale Seiss. The Title IX Coordinator is located in the Howard Gittis Student Center, Room 314, 1755 N. 13th Street Philadelphia PA 19335, 215-204-3283. Inquiries concerning the application of Title IX may be referred to the Title IX Coordinator or to the Department of Education, Office for Civil Rights. In addition to any sanctions that may be imposed by the university for violation of this policy, a person who sexually harasses another person may be held personally liable to the victim and be subject to sanctions independent of those imposed by the university.

Policy Statement

A. PROHIBITIONS

1. Temple University is committed to the maintenance of a community free from sexual harassment. Sexual harassment is unacceptable conduct and will not be tolerated in any context at Temple University, whether it be in a faculty/student, faculty/faculty, supervisor/employee, staff/student, student/student, worker/co-worker, or other relationship. All members of the university community have a responsibility to insure that the university is free from all forms of sexual harassment.

For all individuals who are part of the Temple community, sexually harassing conduct includes the following: sexual assault, unwelcome sexual advances, requests for sexual favors, and other harassing conduct or physical contact of a sexual or gender-motivated nature, when:

- a. submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or status in a course, program, or activity; or
- b. submission to or rejection of such conduct is used as a basis for an employment-related, educational, or other decision affecting an individual; or
- c. such conduct substantially interferes with an individual's work, educational performance, or equal access to the university's resources and opportunities; or
- d. such conduct creates an intimidating, hostile, or abusive work or educational environment.

Sexual or gender-based harassment creates a "hostile environment" when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the University's education or employment programs and/or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including, but not limited to:

- a. The frequency, nature and severity of the conduct;
- b. Whether the conduct was physically threatening;
- c. The effect of the conduct on the reporting party's mental or emotional state;
- d. Whether the conduct was directed at more than one person;
- e. Whether the conduct arose in the context of other discriminatory conduct;
- f. Whether the conduct unreasonably interfered with the reporting party's educational or work performance and/or University programs or activities; and
- g. Whether the conduct implicates concerns related to academic freedom or protected speech.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of sexual assault, for example, may be sufficiently

severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.

2. Conduct between students and faculty, instructors, advisors, athletic coaches, and others (collectively, “persons in authority”).

The relationship between students and persons in authority is central to the academic mission of the university.

- a. With reference to behavior between persons in authority and their students, no persons in authority shall ask a student for a date or sexual favor, or in other ways make a sexual advance toward the student. While a student is a student of a particular person in authority, any sort of sexual or romantic advances or relationship between them is prohibited.
- b. A student is a student of a particular person in authority:
 - (i) when a student is registered in a course taught by the instructor and has not yet received a final grade; or
 - (ii) when a student is assigned to be advised by a particular instructor, whether the instructor is serving as an undergraduate adviser, graduate adviser, or member of a thesis or dissertation committee; or
 - (iii) at other times when an instructor has a relationship with a student such that a student's activities at the university are being supervised or evaluated by the instructor; or
 - (iv) at other times when an advisor, athletic coach, physician, laboratory operator or other similar individual has a relationship with a student such that the student's activities at the university are being supervised or evaluated by that person. The relationships covered by this paragraph include, but are not limited to, medical residents and physicians and student members of athletic teams and athletic department coaches.
- c. There are, in addition, faculty/student relationships that are less clear because, although the faculty member does not have direct responsibility for the student, the faculty member may indirectly affect the student's academic evaluation or career opportunities. Such situations exist, for instance, when a faculty member serves on the fellowship committee in a graduate student's department. In such cases, careful adherence to the following ethical principles is required:
 - (i) an instructor must refrain from expressions of sexual or romantic interest if there is any indication that such interest is unwelcome by the student;
 - (ii) no instructor may indicate, explicitly or implicitly, that an academic reward or punishment could result from the student's reaction to an instructor's sexual or romantic advances;
 - (iii) if a consensual sexual and/or romantic relationship develops between a student and instructor, the instructor should not thereafter take part in any activity that involves evaluation of the student's academic work or progress, without prior permission by the student's academic dean for good cause shown.

3. Supervisory Conduct¹

Any person (a) who has power, either individually or collectively with others, to dispense or influence rewards or punishments regarding another person, (b) who evaluates the work performance of another person, or (c) to whom another person reports regarding work assignments, may not subject such other person to any unwelcome sexual conduct, such as an unwelcome sexual advance or request for sexual favor, irrespective of whether submission to such conduct is explicitly or implicitly made a basis for a decision affecting such person or whether such conduct creates a hostile environment.

B. Education

Educational efforts are essential to the establishment of a campus environment that is as free as possible from sexual harassment. Education, which includes training and staff development, has at least three goals: (a) ensuring that all persons are aware of their rights and responsibilities in the university community; (b) advising members of the university community of unacceptable behavior; and (c) informing all persons about the available mechanisms to address complaints of violations of this policy.

In collaboration with the Title IX Coordinator, various university offices (Wellness Resource Center, Institutional Diversity, Equity, Advocacy, and Leadership (“IDEAL”), Human Resources, etc.) provide educational programming and training opportunities for students, faculty, and staff. These programs include educational sessions about sexual harassment to insure that all members of the university community are aware of sexual harassment in all its forms, the university's policy prohibiting sexual harassment and the procedures available to enforce this policy, as well as the identities of the ombudspersons and the support groups available to help victims of sexual harassment.

A training session on the university's sexual harassment policy will be included in the orientation required of all new students, faculty and other employees. Follow-up educational efforts, including online training sessions for all members of the university community, occur with such frequency and in such a manner as to carry out the purposes of this policy.

C. Procedures for Resolving a Complaint

The informal and formal complaint procedures set forth below are internal administrative procedures of the university. As to those forms of sexual harassment that also violate local, state or federal law, an aggrieved party may also file a complaint with the appropriate local, state, or federal agency or in a court with jurisdiction.

These informal and formal complaint procedures are supplemental to, and are not intended to displace, other disciplinary procedures set forth in any applicable collective bargaining agreement and in the rules and regulations of the Faculty Senate.

1. Informal Resolution Procedures

¹ See also the university's policies on Conflict of Interest, which are available in the Office of Human Resources, the Office of the University Secretary and on the University's Policies and Procedures website at <http://policies.temple.edu/>.

Informal complaints may be oral or written. In many instances, informal discussion, counseling, and mediation can be useful in resolving perceived instances of sexual harassment, although mediation will not be utilized to resolve informal or formal complaints of sexual violence. Problems are sometimes easier to resolve when an informal atmosphere encourages people to identify the difficulty, talk it out, and agree on how to deal with it.² Use of the informal procedures set forth below is not a prerequisite to initiating a formal complaint.

Whom to Contact

Any person who believes that they are a victim of sexual harassment may make an informal complaint to the Title IX Coordinator, IDEAL, Human Resources, and/or any Equal Opportunity Ombudsperson.

Ombudsperson's Role and Responsibilities

Equal Opportunity Ombudspersons shall be designated annually by the appropriate university officials and shall be knowledgeable about sexual harassment matters and trained to assist in understanding and resolving such matters. Ombudspersons should be sensitive to the feelings, rights, and interests of all parties, and have demonstrated ability to handle confidential and sensitive matters in a discreet manner. A sufficient number of ombudspersons should be designated each year to afford reasonable access to them at all university campuses. A list of current Equal Opportunity Ombudspersons is published on the Office of Equal Opportunity Compliance's ("EOC") website (www.temple.edu/eoc).

An individual receiving an informal complaint will treat it as confidential, as specified below. They will advise the reporting individual about support services available at the university, and the availability of both formal and informal complaint resolution procedures.

If requested by the reporting party, the individual receiving the complaint will assist in attempting to resolve the complaint informally. Such assistance may involve, for example, advising the reporting party in writing a letter to the other person asking that the behavior stop. Alternatively, the reporting party may ask the individual receiving the complaint for a meeting with the alleged harasser, or explore other possible resolutions. Other university personnel, such as department chairs, deans, or administrators may be asked to help in resolving an informal complaint.

2. Confidentiality

During informal resolution, all reasonable efforts will be made to insure the confidentiality of information received, including the identities of the parties; however, appropriate university officials, including the university's Title IX Coordinator, may be notified in order to best address complaints and ensure the safety of the university community. If, due to the circumstances of the alleged harassment, it is not possible to conduct a review of, or resolve the complaint and continue to maintain the confidentiality of the information received, the reporting party will be informed and be given the options of proceeding (with disclosure of identity) or withdrawing from the informal resolution process. Anyone with an inquiry or informal complaint may bring

² Persons who receive an informal complaint of sexual harassment should advise the reporting party that they may make their complaint to an Ombudsperson pursuant to this policy.

another member of the university community to discussions with the designated ombudsperson, as long as that person agrees to be bound by the confidentiality provisions of this policy.

3. Formal Complaint Resolution

a. Filing of Complaint

Members of the university community who believe that they are victims of sexual harassment may bring a formal administrative complaint of sexual harassment by filing a written complaint directly with the university's Title IX Coordinator, Human Resources, or EOC. A person is not required to utilize informal resolution procedures before filing a formal complaint.

b. Investigation

The Title IX Coordinator will be responsible for ensuring a prompt investigation of a formal complaint. The purpose of the investigation is to establish whether there is a reasonable basis for believing that a violation of this policy has occurred. The investigation may entail interviews of the reporting party, the responding party, and other persons believed to have pertinent factual knowledge. Depending upon the nature of the formal complaint, the Title IX Coordinator or EOC, may work in conjunction with Campus Safety Services or other appropriate administrative offices in conducting a prompt investigation of the complaint. During such investigations, every reasonable effort will be made to protect the privacy rights of all parties, but confidentiality cannot be guaranteed.

c. Opportunity To Be Heard

The investigation will afford the responding party an opportunity to examine and respond to the allegations. The responding party will be informed of the identity of the reporting party, unless the responding party would have a fair opportunity to respond to the allegations without such disclosure. If the responding party is a Temple University student, the university may utilize its Student Conduct Code as the Title IX Grievance Procedure.

d. Determination

Possible outcomes of the investigation are: (a) a determination that the allegations are not warranted, (b) a negotiated resolution of the complaint, or (c) a determination that more likely than not a violation of this policy has occurred.

The Title IX Coordinator or the EOC will inform the parties promptly, in writing, about the outcome of the investigation.

4. Formal Disciplinary Proceedings

- a. Alleged violations of this policy by persons other than full-time faculty: If the result of the investigation is a determination that it is more likely than not that an alleged violation of this policy has occurred and a negotiated settlement cannot be reached, then the

appropriate university officer will initiate formal disciplinary action as follows:

- (i.) for alleged violations of this policy by non-union employees, the university officer responsible for the unit employing the responding party will initiate disciplinary procedures under the Employee Manual and/or Rules of Conduct;
- (ii.) for alleged violations of this policy by union staff members, a senior officer responsible for Human Resources, or his/her designee, will initiate disciplinary procedures in accordance with the applicable collective bargaining agreement;
- (iii.) for alleged violations of this policy by students, a senior officer for student affairs, or his/her designee, will initiate disciplinary procedures applicable to charges of misconduct under the Student Conduct Code;
- (iv.) for alleged violations of this policy by graduate assistants or other instructional personnel, the provost (or designee) will initiate disciplinary procedures under the appropriate bargaining agreement or Employee Manual; and
- (v.) for any other alleged violations of this policy, the president (or designee) will initiate appropriate disciplinary procedures.

Alleged violations of this policy by a member of the full-time faculty will be governed by the disciplinary procedures applicable to faculty in the Faculty Handbook and in the Temple / TAUP collective bargaining agreement for faculty in that bargaining unit. Without limiting the right of any person to initiate disciplinary action at any time as set forth in those documents, the provost (or designee) shall initiate formal disciplinary procedures against a faculty member for a violation of this policy when the result of an investigation is a determination that it is more likely than not that a violation of this policy has occurred and that a negotiated settlement cannot be reached. When such a case is referred to the Faculty Senate Personnel Committee, the investigation may be considered as equivalent to the college-level review that normally precedes a review by the Personnel Committee.

D. SANCTIONS

Any member of the university community who engages in sexual harassment or other conduct in violation of this policy is subject to the full range of disciplinary action, up to and including separation from the university.

E. RETALIATION IS PROHIBITED

Threats, other forms of intimidation, and retaliation in any form against any member of the university community who exercises his or her right to initiate a complaint or inquiry in good faith under this policy is strictly prohibited, and will itself be cause for appropriate disciplinary action.

Notice

This policy is published on the university's policies and procedures website (policies.temple.edu). Hard copies are available in EOC.

Notes

1. Dates of official enactment and amendments:

Adopted by the President on September 10, 1992. Amended on February 22, 1994, September 14, 1999, January 15, 2007, July 2015, and July 2017.

2. History:

This policy was formerly designated as Presidential Policy Statement No. 1-26.

Supersedes:

Reviewed By:

3. Cross References/Appendix:

Faculty Handbook policy #02.78.02

Student Conduct Code policy #03.70.12

Ratification of Nondiscrimination policy #04.81.01

Nondiscriminatory policy (as to Students) #04.81.02

Ethnic Intimidation policy #04.81.03

Preventing and Addressing Discrimination and Harassment policy #04.81.11

Preventing and Addressing Sexual Misconduct policy #04.82.02

For the current listing of Equal Opportunity Ombudsperson Appointments please refer to <http://www.temple.edu/eoc/AppDev/ombuds.asp>