

# MORGAN STATE UNIVERSITY

## POLICY PROHIBITING SEXUAL HARASSMENT AND PROCEDURES FOR COMPLAINTS OF SEXUAL HARASSMENT

### I. STATEMENT OF POLICY

Sexual harassment by University employees, faculty, staff, and students is illegal conduct and will not be tolerated in the Morgan State University community. Morgan State University is committed to maintaining a working and learning environment in which students, faculty, and staff can develop intellectually, professionally, personally, and socially. Such an environment must be free of intimidation, fear, coercion, and reprisal. The University prohibits sexual harassment. Sexual harassment subverts the mission of the University and threatens the well-being, educational experiences, and careers of students, faculty and staff.

This Statement of Policy constitutes University policy. Sexual harassment violates University policy and may violate the criminal and civil laws of the State of Maryland and the United States.

### II. DEFINITION OF SEXUAL HARASSMENT

For the purpose of this University policy, the University adopts the definition of sexual harassment promulgated by the Equal Employment Opportunity Commission. Sexual harassment is defined as: (1) unwelcome sexual advances; or (2) unwelcome requests for sexual favors; and (3) other behavior of a sexual nature where:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation in a University-sponsored educational program or activity; or
- B. Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting that individual; or
- C. Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or of creating an intimidating, hostile, or offensive educational or working environment. Sexual harassment may occur between persons of the same or different genders.

Examples of sexual harassment, as defined above, may include but are not limited to the following behavior directed at a person because of his or her gender:

- direct or implied threats that submission to sexual advances as a condition of employment, work status, promotion, grades, or letters of recommendation;
- unwelcome physical contact, including unnecessary touching, patting, hugging or brushing against a person's body;
- pervasive and or unwelcome sexual comments, jokes or conversations;

In assessing whether a particular act constitutes sexual harassment as defined by this policy, the standard shall be the perspective of a reasonable person within the University community. In determining whether alleged conduct constitutes sexual harassment, the University will look at the record as a whole and at the totality of the circumstances such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be based on the findings of fact, on a case by case basis. The rules of common sense and reason shall prevail.

### **III. INFORMAL RESOLUTION**

In certain cases, where the nature of an alleged incident may not be so serious that the University must intervene in a formal way and the Complainant indicates that she or he does not want to pursue a formal complaint but simply wants the harassment to stop, informal resolution may be the preferred way to handle a complaint. However, informal resolution must always be voluntarily agreed to in writing by the Complainant with no requirement that the Complainant use informal procedures before filing a formal charge. The individual is free to withdraw from informal procedures altogether and file formally within the institution.

The University will always investigate a matter even when the Complainant refuses to file a formal complaint. However, when the University and Complainant agree to handle the matter informally, a formal investigation will not ensue as provided for in section IV of this policy.

The informal manner in which an incident is handled will depend upon the severity of the incident and the wishes of the Complainant. Possible alternatives include but are not limited to: the Complainant telling the alleged offender the behavior is unwelcome and must stop; the Complainant mailing or placing a copy of the sexual harassment policy in the alleged offender's mailbox after circling the applicable portion of the policy; the Complainant sending a letter to the alleged offender, giving a factual account of what happened, describing the writer's feelings about what happened, describing what the writer wants to happen next (e.g., "I want your behavior to stop."), and delivery of the letter by certified mail.

### **IV. PROCEDURES FOR FILING FORMAL COMPLAINTS OF SEXUAL HARASSMENT**

## **A. Formal Complaints of Sexual Harassment**

1. A formal complaint occurs when: a person who believes that he/she has been the victim of sexual harassment in the University community; or (b) a University employee with knowledge of the allegations, notifies the University's Equal Opportunity Officer, General Counsel, or Director of Human Resources of the allegations. If either the General Counsel or Director of Human Resources receives notification, they shall promptly refer the notice to the Equal Opportunity Officer or such other person designated by the President. The person who complains, who is referred to as the "Complainant", may be a University employee, student, staff member, or faculty member. The Complainant will be interviewed by the Equal Opportunity Officer or such other person designated by the President and asked to provide a written statement of his/her complaint but is not required to do so.
2. **THERE IS NO SUCH THING AS AN "UNOFFICIAL" COMPLAINT OF SEXUAL HARASSMENT. ONCE THE UNIVERSITY'S EQUAL OPPORTUNITY OFFICER, GENERAL COUNSEL OR DIRECTOR OF HUMAN RESOURCES LEARNS OF A SEXUAL HARASSMENT COMPLAINT, WRITTEN OR ORAL, THE UNIVERSITY IS REQUIRED TO INVESTIGATE THE MATTER UNLESS THE UNIVERSITY AND THE COMPLAINANT AGREE TO PURSUE THE MATTER INFORMALLY.**
3. The University shall have no obligation to investigate complaints received more than 120 days after the date on which the alleged harassing conduct is alleged to have occurred unless it chooses to do so.

## **B. Reporting a Complaint**

Any University employee who obtains knowledge of an incident of sexual harassment occurring within the University is required to notify the Equal Opportunity Officer, General Counsel or the Director of Human Resources whether or not the Complainant indicates that they do not want anyone to do anything about the harassment. University employees failing to report incidents of sexual harassment may be subject to disciplinary action. Once notified, the Equal Opportunity Officer, or the Director of Human Resources shall promptly notify, in writing, the University's General Counsel (or such other person designated by the President) of the receipt of a sexual harassment complaint. If the complaint is received by the General Counsel, the General Counsel shall promptly notify the Equal Opportunity Officer, in writing.

## **C. Notice of Charge to the Person Accused of Sexual Harassment**

Upon receiving a complaint, the Equal Opportunity Officer, or such other person designated by the President shall notify the person(s) accused of sexual harassment. The written notice of charge will inform the person accused of sexual harassment that a complaint has been filed, the name of the Complainant, and a general statement of the nature of the complaint. It will also advise the Accused that the Accused will be provided with detailed information during the interview regarding the allegations during the interview and have an opportunity to respond to each allegation in an interview to be scheduled by the Equal Opportunity Officer, or such other person designated by the President.

**D. Investigation and Report on Investigation**

The Equal Opportunity Officer or such other person designated by the President shall promptly conduct an investigation which must include but is not limited to an interview of the Complainant, person accused of sexual harassment, witness(es) and a review of documentation. University employees, including the Accused, refusing to cooperate with the internal investigation shall be subject to disciplinary action, ranging from reprimand to termination.

**E. Findings of Fact and Recommendations for Action**

The written findings of fact derived from the investigation and recommendations for action by the Equal Opportunity Officer or such other person designated by the President shall be confidentially reported to the President (or the President's designee). The written findings of fact shall also be confidentially reported to the relevant vice president, dean or chairperson or supervisor as determined by the Equal Opportunity Officer upon prior consultation with the General Counsel. Recommended sanctions for employees accused of sexual harassment include, but are not limited to, reprimand and termination. Recommended sanctions for students accused of sexual harassment include, but are not limited to, suspension and expulsion.

The Equal Opportunity Officer may advise the Complainant and the Accused of the result of the investigation (that is, whether harassment has been confirmed). Neither the Complainant nor the alleged harasser are entitled to receive a copy of the findings of fact and recommendations for action; except where disciplinary action is involved, the accused shall be provided with notice of the findings of fact which resulted in the recommendation for disciplinary action. Upon written request, however, both parties may receive a summary of the findings of fact.

In instances where the Equal Opportunity Officer's findings of fact sustain any of the Complainant's allegations and a recommendation for disciplinary action is made, the procedure employed to proceed with disciplinary action shall depend upon the employment category of the Accused and the policies and procedures governing an employee within that employment category. Examples of procedures include, but

are not limited to:

- a recommendation for termination of a tenured or tenure track faculty member faculty which may be handled in accordance with the faculty termination policy;
- a recommendation of disciplinary action less than termination of a tenured or tenure track faculty member which may be referred to the applicable Dean or the Vice President for Academic Affairs for action which the Accused may appeal (to the Vice President for Academic Affairs when action is taken by the Dean and to the Executive Assistant to the President when the action is taken by the Vice President for Academic Affairs) within five (5) working days after receiving notice of the disciplinary action. Failure of the Accused to appeal within five (5) working days shall result in imposition of the prescribed disciplinary action;
- a recommendation for termination of a classified employee may be handled in accordance with State law and the classified employees policies and procedure manual;
- a recommendation for disciplinary action against a student may be handled in accordance with the *Code of Student Conduct*.
- recommendations for action based upon a finding of sexual harassment committed against a member of the University community (employee or student) by a person external to the University (an independent contractor, a vendor, a third party) will depend upon the circumstances of each case and may include, but are not limited to, termination of a contractor's contract with the University; referral to officials of the criminal justice system; and advisement of trespass from the University.

## **V. CONFIDENTIALITY**

Sexual harassment is a matter of grave concern for both the Complainant and the Accused. Therefore, information gathered during the investigation of sexual harassment complaints will be handled discreetly and with the utmost sensitivity and care. Notwithstanding the above, in the course of any investigation, the release of some information is necessary in order to gather relevant information.

## **VI. OTHER RESOURCES**

Persons who feel they are the victims of sexual harassment may pursue the matter with an external organization which may include but is not limited to: the Maryland Commission on Human Relations and/or the Equal Employment Opportunity Commission. In addition, the circumstances of the case may warrant the consideration of the filing of a complaint pursuant

to the *Code of Student Conduct* and the Classified Employee's grievance procedures. Other civil and criminal causes of action may be available to the Complainant.

**VII. RETALIATION**

Any member of the University community who attempts to interfere, restrain, coerce, discriminate against, or harass any individual for participation in the procedures set forth in this policy will be subject to disciplinary action including but not limited to: for employees - termination, suspension, or formal reprimand; and for students - suspension or expulsion.

**VIII. FALSE AND MALICIOUS CHARGES**

The use of this policy for false or malicious purposes is strictly prohibited. Any student, faculty member, or staff member who exercises bad faith and brings a false or malicious charge of sexual harassment against another member of the University community may be subject to disciplinary action including but not limited to: for employees - termination, suspension, or formal reprimand; and for students suspension or expulsion.

**IX. EDUCATION PROGRAMS**

Educational efforts are essential to the establishment of a campus environment that is as free as possible of sexual harassment. There are at least four goals to be achieved through education: ensuring that all victims (and potential victims) are aware of their rights; notifying individuals of conduct that is proscribed; informing administrators about the proper way to address complaints of violations of this policy, and helping educate the insensitive about the problems this policy addresses. Copies of this policy shall be made available to all members of the campus community. Training sessions shall be made available to all interested faculty, staff and students at the University.

**X. EFFECTIVE DATE**

The effective date of this policy shall be February 15, 2000. This policy shall govern the treatment of complaints of sexual harassment received by the Equal Opportunity Officer, the General Counsel or the Director of Human Resources after that date.