

34.01.99.L1
SEXUAL HARASSMENT

Last Updated: *New September 22, 2004*

Supplements: [System Policy 08.01 Civil Rights Protections and Compliance](#)
[System Regulation 08.01.01 Civil Rights Compliance](#)

In order to establish an educational and work environment that is conducive to the personal and professional development of each member of the University community, Texas A&M International University shall be free from all forms of sexual discrimination and harassment. Conduct constituting sexual harassment is prohibited and will result in appropriate sanctions.

Each supervisor has a responsibility to maintain the educational and work environment free of sexual harassment. This includes abstaining from sexual harassment, identifying and resolving sexual harassment that may be occurring within their area of responsibility, and disseminating this rule to all employees while assuring them that they are not to endure insulting, degrading, or exploitative sexual treatment.

The Office of Human Resources is responsible for maintaining and updating University rules and procedures to ensure compliance with the Sexual Harassment rule. Whenever a change is made to the Sexual Harassment rule or procedure, the Office of Human Resources will determine additional training needs as necessary. Any person wishing to file a sexual harassment complaint will follow the procedures in this University rule.

1. DEFINITIONS

- a. Sexual Harassment – Unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature, submission to which is made a condition of a person’s exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly.

Additionally, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (a) submission to such conduct is made (either explicitly or implicitly) a term or condition of an individual’s employment, (b) submission to, or rejection of, such conduct by an individual is used as a basis for employment decisions affecting the individual, or (c) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive environment.

- b. Complainant – An employee (faculty, staff, student), student (non-employee), or third party (to include but not limited to those receiving services from the component, vendors, private business associates) who perceives that s/he has been subjected to sexual harassment by an employee (faculty, staff, student) or student (non-employee) who

chooses to lodge an informal and/or formal complaint under University procedure. A complainant may also be an employee (faculty, staff, student) or student (non-employee) who perceives that s/he has been subjected to sexual harassment by a third party.

- c. Affirmative Action Officer (AAO) – The individual responsible for administering the University’s affirmative action and equal employment opportunity policies and procedures. The Director of Human Resources currently serves as this administrator. The AAO has the authority to determine jurisdiction when lines of responsibility and appeal are unclear; grant extensions when appeals and responses cannot be made within established time frames; seek advice from the Office of General Counsel of The Texas A&M University System; and maintain all necessary and appropriate records on behalf of the University.
- d. Informal Complaint – A verbal petition made by a complainant to his/her immediate supervisor or other University official that simply seeks to have specific behavior(s), which the complainant perceives to be sexual harassment, cease.
- e. Formal Complaint – A written petition made by a complainant that not only seeks to have specific behavior(s), which the complainant perceives to be sexual harassment, cease, but also initiates an investigation and may result in imposition of disciplinary action or sanctions.
- f. Sanctions – Disciplinary actions taken by the University which involve the imposition of certain restrictions or penalties on an employee (faculty, staff, student) or student (non-employee) which may range in severity from a verbal reprimand to dismissal (if an employee) or expulsion (if a student) from the University. The implementation of sanctions will be made in accordance with other applicable University rules and System policies.
- g. Ad Hoc Committee – A committee, appointed by a vice president or designee, whose responsibility consists of reviewing a previous decision and/or sanctions. Following this review, the committee will recommend to the vice president that the decision and/or sanctions be upheld, modified, or overturned. An ad hoc committee is composed of no more than five members. This committee should include a three/two representation of the same gender and status (faculty, staff, or student) of the complainant and representation of the same gender and status of the alleged offender.
- h. Intermediate Administrator – A dean, assistant/associate vice president, or other equivalent administrator who typically fulfills an intermediate role between a department head and a vice president.
- i. Immediate Supervisor – In the context of this Rule statement, the immediate supervisor of the alleged offender.

2. PROCEDURES

- 2.1 Any employee (faculty, staff, student) who believes s/he has been subjected to sexual harassment should promptly report the incident(s) to the immediate supervisor, a department head, an intermediate administrator, a vice president, or the AAO. Students (non-employee) should report any such incident(s) to the University official specified in the Student Handbook. Third parties (to include but not limited to those receiving

services from the component, vendors, private business associates) should promptly report the incident(s) to the Office of Human Resources.

- 2.2 No person is required to report sexual harassment to their direct supervisor or to the alleged offender.

3. COMPLAINT RESOLUTION PROCEDURE

A complaint may be initiated by an employee (faculty, staff, student), student (non-employee), or third party. A person who believes s/he has been subjected to sexual harassment and seeks to take action may pursue either the informal or formal complaint resolution procedure, or both. A complaint against an employee (faculty, staff, student) must be initiated within 6 months of the most recent incident which has given rise to the complaint. If the complaint is against a student (non-employee), refer to the timeline specified in the Student Handbook.

- 3.1 Informal Complaint: Resolution of an informal complaint involves no formal investigation and may be pursued as follows:
 - 3.1.1 A complaint of sexual harassment may be initially directed to the immediate supervisor, a department head, an intermediate administrator, a vice president, or the AAO.
 - 3.1.2 An offended individual may choose to communicate to the offender that the behavior is unwelcome and must cease immediately. If the offending behavior does not cease, the offended individual should report the incident(s) to one of the individuals listed in 3.1.1 above.
 - 3.1.3 At the request of the complainant, the immediate supervisor or other administrator who has been contacted may attempt to resolve the complaint. Confidentiality will be maintained to the extent possible while conducting a complete investigation. Before attempting to resolve the complaint, the immediate supervisor or administrator will consult with the AAO.
 - 3.1.4 Under this informal procedure, the complainant may, at any time, elect to withdraw the complaint. However, the University, through the advice of the AAO and the System Office of General Counsel, may choose to follow up on the complaint and take appropriate action.
 - 3.1.5 Methods for informal resolution may include, but are not limited to: coaching the complainant on how to address directly the situation causing the problem; mediating the dispute between the parties concerned; aiding in the modification of a situation in which the offensive conduct occurred; assisting a department or division with the resolution of a real or perceived problem; or conducting a documented meeting with the alleged offender that involves a discussion of the requirements of the sexual harassment University rule.
 - 3.1.6 Documentation shall be retained by the Office of Human Resources and shall be kept confidential to the extent permitted by law.
- 3.2. Formal Complaint: All formal complaints should be filed in writing with the AAO (if the alleged offender is an employee) or with the University official specified in the Student Handbook (if the alleged offender is a student). The status of the alleged offender will determine the appropriate procedure for notification that a formal

complaint has been filed. The written complaint should contain all of the following information:

- 1) name of the complainant;
- 2) contact information, including address, telephone, and email (if appropriate);
- 3) name of person(s) directly responsible for the alleged violation(s);
- 4) date(s) and place(s) of the alleged violation(s);
- 5) nature of the alleged violation(s);
- 6) detailed description of the specific conduct that is the basis of the alleged violation(s);
- 7) names of any witnesses to the alleged violation(s);
- 8) action requested to resolve the situation;
- 9) complainant's signature and date of filing; and
- 10) any other relevant information.

3.2.1 If the alleged offender is an employee of the University, the AAO will notify the intermediate administrator and the department head within five working days (to the extent possible) following receipt of the complaint to give notification that a formal complaint has been filed.

3.2.1.1 Investigation:

Following the notification by the AAO, the intermediate administrator shall immediately notify the alleged offender and the vice president under which the alleged offender reports. Within fifteen working days (to the extent possible), the intermediate administrator, with the assistance of the department head and AAO, shall investigate and determine whether harassment occurred and what sanctions (if any) should be imposed. This decision shall be communicated in writing to the complainant, the alleged offender, the vice president, and the AAO. The complainant or alleged offender may appeal this decision to the vice president within ten working days of receiving the finding.

Within five working days of receipt of such an appeal (to the extent possible), the vice president may convene an ad hoc committee, if deemed appropriate.

If an ad hoc committee is convened, said committee will provide a report to the vice president within twenty working days, unless circumstances require additional time for such notification. Following receipt of the committee's findings and recommendations, the vice president will communicate within five working days (to the extent possible) a written decision concerning the appeal to all parties involved.

If an ad hoc committee is not convened to review an appeal of the decision and/or sanctions, the vice president will have fifteen working days to communicate a written decision concerning the appeal to all parties involved, unless circumstances require additional time for such notification.

Any decision made by the vice president may be appealed to the President of the University within ten working days of receipt. The decision of the President shall be final and binding.

After the finding, the AAO will continue monitoring to ensure the circumstances surrounding the alleged sexual harassment complaint have been remedied and no harassment has recurred.

3.2.2 If the alleged offender is a student, procedures in the Student Handbook will be followed, and the University official specified in the Student Handbook will meet with him/her following receipt of the complaint to give notification that a formal complaint has been filed.

If the student (alleged offender) is also an employee of the University, the University official specified in the Student Handbook will notify the AAO within five working days. The AAO will then follow procedures in Section 3.2.1 of this rule.

If the alleged offender is a student and the complainant is an employee of the University, the University official specified in the Student Handbook will notify the AAO within five working days that an employee has filed a formal complaint against a student. The AAO and the University official specified in the Student Handbook will then coordinate the investigation.

4. REPORTING RESPONSIBILITY

Any employee (faculty, staff, student), student (non-employee), or third party who witnesses what is perceived to be a violation of this Rule should report the conduct to the AAO. Any supervisor who witnesses or becomes aware of an alleged occurrence of sexual harassment is required to take prompt corrective action as appropriate and report the matter to the AAO. Failure of the supervisor to take appropriate corrective action or to report the incident shall be a violation of this Rule and shall constitute misconduct subject to disciplinary action.

5. RETALIATION PROHIBITED

Retaliatory action of any kind taken against an individual as a result of a person's attempt to seek redress under the applicable procedures dealing with sexual harassment, or other employee or student assisting in an investigation of alleged sexual harassment, is prohibited. Such action by an individual will be regarded as a distinct cause for disciplinary action up to and including dismissal from the University.

6. TRAINING AND EDUCATION

Recognizing the necessity for increased awareness of and sensitivity to the issue of sexual harassment as well as the need to ensure supervisors at all levels are prepared to address and respond to this issue within the guidelines of the System Policy and this Rule, appropriate training initiatives will be developed, implemented, and maintained by the AAO. This will include new hire employee training and biennial equal employment opportunity training.

OFFICE OF RESPONSIBILITY:

[Office of Human Resources](#)