

HARASSMENT

University Rule 34.01.99.C1 – Approved October 21, 2002
Supplements System Policy 34.01

1. STATEMENT OF PHILOSOPHY

- 1.1 Texas A&M University-Corpus Christi is committed to creating and maintaining a campus environment where all individuals are treated with respect and dignity and where all are free to participate in a lively exchange of ideas. Each student has the right to learn and each employee has the right to work in an environment free of sexual and other forms of harassment and one in which ideas may be freely expressed.
- 1.2 At Texas A&M University-Corpus Christi, harassment, whether verbal, physical, written, or visual, is unacceptable and will not be tolerated. Harassment can be unlawful and hurts all members of the educational community. Each incident of sexual harassment contributes to a general atmosphere in which other members of the victim's sex suffer the consequences and in which all students and employees may feel that their safety and equality are compromised. Other forms of harassment have a similarly negative effect on members of the community. Harassment has no legitimate educational purpose. Any employee or student, male or female, who engages in conduct prohibited by this rule shall be disciplined as provided by System policies, university rules, and applicable employment agreements.
- 1.3 Texas A&M University-Corpus Christi will not tolerate any harassment of anyone affiliated with the University or participating in University sponsored activities, and will not tolerate adverse academic or employment actions against anyone reporting harassment or providing information related to such a complaint.

2. PRINCIPLES

- 2.1 Conduct that reasonably serves a legitimate educational purpose, including pedagogical techniques, does not constitute harassment.
- 2.2 Nothing contained in this rule shall be construed to limit the legitimate exercise of free speech, including but not limited to written, graphic, or verbal expression that can reasonably be demonstrated to serve legitimate educational or artistic purposes.

3. RULE COVERAGE

All faculty, administrators, staff, students, organizations (e.g., alumni, Greek, etc.) and contractors affiliated with Texas A&M University-Corpus Christi are bound by this rule.

This rule protects men and women equally from harassment, including same-sex harassment, and protects students from harassment by other students.

4. SEXUAL HARASSMENT – DEFINITION

- 4.1 Sexual harassment means 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.
- 4.2 Sexual harassment may range from unthinking and unintentional verbal denigration of a person on the basis of his/her gender to actual physical assault. Some behaviors that may constitute sexual harassment include, but are not limited to, offensive sexual flirtations, advances, or pressure for sexual activity; unwanted touching, pinching, or unnecessary brushes; unwanted exposure to sexual graffiti, photographs or suggestive objects; signed or anonymously sent sexually explicit electronic messages or displayed screens; sexual innuendoes or statements made at inappropriate times or disguised as humor, or obscene gestures; disparaging remarks about one's gender; or any offensive or abusive physical contact.
- 4.3 Conduct, whether on or off University and/or System property, at University sponsored activities will constitute sexual harassment when:
 - (1) submission to, or toleration of, such conduct is made (either explicitly or implicitly) a term or condition of employment or participation in other University and/or System-related activities;
 - (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions or academically-related decisions affecting such individual; or,
 - (3) such conduct has the purpose or effect of unreasonably interfering with an individual's ability to function normally, or of creating an intimidating, hostile, or offensive work and/or learning environment.
- 4.4 Sexual harassment can be perpetrated by any member of the University community against any other member. For example, sexual harassment can occur within a University subcommunity such as: faculty to faculty, student to student, and staff member to staff member. Likewise, sexual harassment can occur across University subcommunities (e.g. faculty to student, staff to faculty, or staff to student).

5. CONSENSUAL RELATIONSHIPS

- 5.1 Sexual relations between students and faculty members with whom they also have an academic or evaluative relationship are strongly discouraged because they are fraught with the potential for exploitation. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in an academic and evaluative role, make voluntary consent by the student suspect. Even when both parties initially have consented, the development of a sexual relationship renders both the faculty member and all the institution vulnerable to possible later allegations of sexual harassment in light of the significant power differential that exists between faculty members and students.
- 5.2 Similar problems can result if supervisors have romantic and/or sexual relationships (consensual or otherwise) with employees who are in the supervisor's line of supervision.

6. OTHER FORMS OF HARASSMENT

- 6.1 Harassment, other than sexual harassment, is verbal, physical, written, or other conduct that denigrates or shows hostility or aversion to an individual on the basis of gender, race, color, religion, age, national origin, ethnicity, disability, veterans status, marital status, or any basis prohibited by law when from the objective standpoint of a reasonable person such conduct substantially interferes with an individual's work or school performance, creating an intimidating, hostile, or offensive working or learning environment even if the person engaging in the conduct does not intend to interfere, intimidate, or be hostile or offensive. Harassment based on any of the characteristics listed above is strictly prohibited by this rule. The conduct must be sufficiently severe, persistent, or pervasive that it creates a hostile or abusive educational or working environment. A one-time incident may rise to the level of harassment. However, such conduct must be severe.
- 6.2 Complaints of harassment will be investigated and resolved in accordance with the terms of this rule and University Procedure 34.01.99.C1.01.

7. RETALIATION

- 7.1 No member of the University community will be subjected to retaliation or intimidation for refusing sexual advances, objecting to sexual, racial, or other forms of harassment, or making a good faith report of harassment.
- 7.2 Retaliatory or intimidating conduct against any individual who has made a good faith harassment complaint or who has testified or assisted in any manner in an investigation is specifically prohibited and shall provide grounds for a separate complaint. Examples of such retaliatory or intimidating conduct include disciplining, changing working or educational conditions, providing inaccurate information to or about, or refusing to

cooperate or discuss work- or school-related matters with any individual because that individual has complained about or resisted sexual harassment. The initiation of a good faith complaint of harassment by a student will not reflect negatively on that student nor will it affect the student's academic standing, rights, or privileges. Likewise, the initiation of a good faith complaint by an employee will not reflect negatively on that employee nor will it affect the employee's working conditions, rights, or privileges.

8. CONFIDENTIALITY

- 8.1 Confidentiality will be maintained throughout the entire investigatory process to the extent practicable and appropriate under the circumstances to protect the privacy of persons involved. The persons charged with investigating the complaint must discuss the complaint or the underlying behavior only with persons involved in the case who have a need to know the information, which must include the complainant and the accused harasser.
- 8.2 The University is required by law to investigate any complaint of harassment and will strive to protect, to the greatest extent possible, the confidentiality of persons reporting or accused of harassment. However, the University cannot guarantee complete confidentiality where it would conflict with the University's obligation to investigate. Individuals who desire to discuss possible claims of harassment in another setting to clarify whether to proceed with a complaint may want to consult with a counselor, therapist or member of the clergy.

9. COMPLAINT PROCEDURES

All are encouraged to promptly report harassment so that appropriate action can be taken. Both informal and formal avenues exist for addressing and resolving complaints. The complaint procedures are described in detail in University Procedure 34.01.99.C1.01. The timeline for filing a formal grievance is 365 days from the last alleged incident of harassment. An employee may be disciplined for the bad faith filing of a grievance.

10. DISSEMINATION OF RULE

This rule will be distributed to all faculty, staff, students, and administrators, and will be made available to anyone else affiliated with the University. The rule will be published in the Faculty Handbook and Student Code of Conduct and posted on the University Rules Web Site located. www.tamucc.edu/provost/university_rules/index.htm. This rule may be revised from time to time and such revisions will be posted on the Web site. Any incident reported under this rule will be governed by the rule and accompanying procedure posted on the Web site at the time of the incident.

11. TRAINING AND EDUCATION

Education efforts are essential to the establishment of a campus milieu that is as free as possible of sexual harassment and in which high standards of conduct in consensual relations are observed. Accordingly, all new employees (faculty and staff) will receive sexual harassment prevention training as part of their University orientation. Established employees will receive updates periodically. Training and education will address the following goals:

- (1) notifying individuals of conduct that is prohibited;
- (2) ensuring that all faculty, staff and students are aware of their rights;
- (3) informing supervisors about the proper way to address complaints of violations of System policy and University rules;
- (4) educating the faculty, staff, and students about the problems associated with sexual harassment.

Contact for Interpretation: Director of Equal Opportunity and Employee Relations