

GRIEVANCE PROCEDURES FOR HARASSMENT COMPLAINTS

*University Procedure 34.01.99.C1.01 - Approved November 12, 2001
Supplements System Policy 34.01 and University Rule 34.01.99.C1*

1. GENERAL

This document should be read in conjunction with System Policy 34.01 and University Rule 34.01.99.C1. The rule prohibits sexual harassment and other forms of harassment. In addition to providing a statement of philosophy and a definition of sexual harassment, the rule also addresses issues related to academic freedom, consensual relationships, retaliation against complainants, and confidentiality. The System policy and University rule should be reviewed by anyone involved in a harassment complaint.

2. COMPLAINT PROCEDURES

All are encouraged to promptly report harassment so that appropriate action can be taken. The complaint procedures are designed to ensure the rights of the complainant while at the same time according due process to both parties. For a discussion of guidelines regarding confidentiality in investigations, please review University Rule 34.01.99.C1.

2.1 Form of Complaint

Complaints of harassment will be accepted orally or in writing.

2.2 Content of Complaint

Any individual who believes she or he is being harassed or has been harassed in violation of University Rule 34.01.99.C1 should promptly file a complaint including the following information, if known to the complainant: the name of the complainant, a brief description of the offending behavior including times, places, and the name of or identifying information about the alleged perpetrator, and the names or descriptions of any witnesses to the harassment.

2.3 Reporting the Complaint

It is not necessary to first confront the alleged harasser prior to instituting a complaint concerning harassment. However, it is appropriate to promptly report a complaint so that a full and complete investigation is possible. Any person designated to receive complaints from students, employees, or faculty must notify the Office of Employee Relations within twenty-four (24) hours of receiving a harassment complaint.

2.3.1 Complaints by Students

A student who believes she or he has been harassed or is being harassed may report the alleged behavior to any of the following individuals:

Dean of Students, University Center 318, phone 825-2612

Vice President for Student Affairs, University Center 318, phone 825-2612

Dean of the student's college

Director of Equal Opportunity and Employee Relations, Corpus Christi Hall 130, phone: 825-5826/825-2765

If the complaint involves student-to-student harassment, the judicial process described in Article IV (Judicial Policies) in the Student Code of Conduct will be followed. If the alleged harassment involves a student and a staff member or a student and a faculty member, the process described in Section 3 of this procedure will be implemented.

2.3.2 Complaints by Staff

An employee who believes he or she is being harassed in violation of University Rule 34.01.99.C1 may report the alleged harassing behavior to any of the following individuals:

Direct supervisor

Head of the department, if the employee works for a nonacademic department

Dean of the college (or person designated by the Dean), if the aggrieved employee works in a college

Appropriate vice president

Director of Equal Opportunity and Employee Relations, Corpus Christi Hall 130, phone: 825-5826/825-2765

2.3.3 Complaints by Faculty

A faculty member who believes he or she is being harassed or has been harassed in violation of University Rule 34.01.99.C1 may report the alleged harassing behavior to any of the following individuals:

Department Chair

Dean of the college (or person designated by the Dean) with which the aggrieved faculty member is affiliated

Provost and Vice President for Academic Affairs, Corpus Christi Hall 273, phone: 825-2722

Director of Equal Opportunity and Employee Relations, Corpus Christi Hall 130, phone: 825-5826/825-2765

- 2.3.4 Any university official (faculty, staff, administrator) who receives a harassment complaint should inform the Office of Employee Relations.

3. INVESTIGATION AND RESOLUTION OF HARASSMENT COMPLAINTS

3.1 Formal and Informal Avenues for Addressing and Resolving Complaints

- 3.1.1 The University provides two forums to address and resolve complaints of sexual harassment.

- (1) An informal procedure allows for the resolution of low level forms (e.g. innuendoes or statements made at inappropriate times or disguised as humor) of sexual harassment where the grievant (recipient of the behavior) is seeking to stop the behavior and is not pursuing disciplinary action against the alleged offender. The use of informal procedures for resolving sexual harassment complaints does not mean that the institution takes sexual harassment lightly. Informal procedures simply provide an alternative method for getting sexual harassment to end, which is often what recipients of harassment want.
- (2) The formal procedure is used for repeat offenders and more severe forms of sexual harassment (e.g. offensive sexual flirtations, advances, or pressure for sexual activity; unwanted touching, or pinching, etc.). A formal investigation is needed to determine if sexual harassment has occurred, the culpability of the alleged offender, and the appropriate sanction or remedies. A formal grievance procedure must be followed in order for the University to impose any kind of discipline on the offender.

- 3.1.2 Students who think they are recipients of harassment are also encouraged to seek advice or counseling from the University Counseling Center, 825-2703.

Faculty and staff who experience harassment may seek advice and counseling through the Employee Assistance Program.

- 3.1.3 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.

3.2 Informal Process

3.2.1 Investigation

After receiving a complaint of harassment directly from a student, faculty member, staff member, or administrator, or indirectly from a person designated to receive complaints, the Office of Employee Relations shall promptly conduct an initial investigation.

3.2.2 Resolution

Depending upon the nature and severity of the complaint and the wishes of the person(s) claiming harassment, informal resolution may involve one or more of the following or other appropriate actions:

- (1) advising the person(s) about how to communicate the unwelcome nature of the behavior to the alleged harasser;
- (2) distributing a copy of the sexual harassment rule as a reminder to the department or area whose behavior is being questioned;
- (3) if both parties agree, arranging and facilitating a meeting between the person(s) claiming harassment and those accused of harassment to work out a mutual resolution.
- (4) mediating a resolution through one-on-one separate discussions with the grievant and alleged harasser.

3.3 Formal Process

3.3.1 Investigation

3.3.1.1 A formal investigation of sexual harassment charges will begin promptly by the Office of Employee Relations after the submission of a written request by a student, faculty member, or staff member for a formal investigation. The timeline for filing a formal grievance is 365 days from the last alleged incident of harassment.

However, a formal request by the grievant is not required for the University to conduct an investigation. As the process proceeds, the Office of Employee Relations will keep the parties informed about the status of the investigation.

3.3.1.2 If a complaint cannot be informally resolved after the initial investigation, the Office of Employee Relations shall continue the investigation or designate someone to promptly conduct further investigation of the complaint, which may in some circumstances be an outside neutral third party. 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, including the complainant and the accused harasser.

3.3.2 Resolution Within 30 Days

Within 30 working days of receiving the complaint, the Office of Employee Relations or its designee shall make a finding of whether harassment occurred. If the investigation cannot be concluded within that time, the Office of Employee Relations shall notify the parties regarding the delay.

3.3.3 Objectivity

The complainant and the accused are entitled to an investigation conducted by an impartial investigator. Thus, if any persons charged with investigating harassment complaints are implicated in the complaint, or have any personal issue that could cause a conflict of interest, the person or persons shall recuse themselves from the proceeding. If any administrator charged with overseeing or investigating harassment complaints is implicated in the complaint, or has any personal issue that could cause a conflict of interest, the administrator's supervisor shall designate someone impartial to conduct the investigation and make findings. In some circumstances the designated person may be an outside neutral third party.

3.3.4 Findings of Formal Investigation

The investigating official(s) will forward the findings of the formal investigation to the appropriate administrator(s). In cases in which the alleged offender is a member of the faculty or academic staff, the findings will be forwarded to the Dean and Provost. In cases in which the alleged offender is a student or non-academic staff member, the findings will be forwarded to the appropriate vice president. The findings or outcomes of the investigation will be determined utilizing the following standards:

- (1) substantiated complaints -- where it is more probable than not that the allegation or allegations asserted occurred.
- (2) unsubstantiated complaints -- where there is a lack of evidence to support that the allegation(s) probably occurred.
- (3) false complaints -- where there is evidence that the allegations were intentionally false and malicious.

3.3.5 Sanctions

3.3.5.1 If the grievance is substantiated or a false complaint identified, the appropriate vice president will review the findings and administer appropriate sanctions normally within five working days of receipt of findings. The complainant and the alleged offender will be informed of the findings.

3.3.5.2 Sanctions imposed upon offenders will demonstrate the University's commitment to taking strong and effective measures to both remedy and prevent sexual harassment. Sanctions will be commensurate with the egregiousness of the behavior. They will range from written reprimand up to and including termination of employment or attendance at the University.

3.3.6 Appeals

3.3.6.1 Offenders desiring to appeal their sanction(s) will do so through the corresponding University administrative channels based on their respective University community status (i.e., students - Vice President for Student Affairs; faculty and staff - corresponding Vice President). Appeals will be considered only when:

- (1) new evidence that was not reasonably available at the time of the formal investigation becomes available,

- (2) there is an allegation of substantial procedural error on the part of the investigating official(s), or
- (3) the sanction was excessively severe.

3.3.6.2 A three-person committee appointed by the President will review appeals. The appeal committee will convene generally within five (5) working days from the receipt of the appeal and provide a recommendation to the President's designee (usually a vice president who was not involved in the initial decision), who will make a final decision regarding the appeal.

Contact for Interpretation: Director of Equal Opportunity and Employee Relations