



HARASSMENT AND DISCRIMINATION GENERAL ORDER #11.02

Adopted: 06/15/05

Supplements: "*Stanford University's Administrative Guide Memo 23.2 on Sexual Harassment*"

POLICY

The *Stanford University Department of Public Safety* will not tolerate or condone any form of illegal harassment or discrimination, including sexual harassment in the workplace. Such conduct *may* result in disciplinary action, up to and including termination, against any employee engaging in unlawful harassment or discrimination. Any employee found to be retaliating against another employee for making a complaint under this policy shall be subject to disciplinary action. This Policy shall supplement and not replace existing policy as stated in "*Stanford University's Administrative Guide Memo 23.2 on Sexual Harassment.*"

FEDERAL AND STATE LAW

Federal and state law provide that it shall be an unlawful discriminatory practice for any employer, on the basis of race, religion, color, national origin, ancestry, medical condition, physical or mental disability, marital status, sex, age or sexual orientation of any person, to discharge without cause, to refuse to hire, or otherwise to discriminate against that person with respect to any matter directly or indirectly related to employment. Harassment of an employee on the basis of any of the above listed characteristics, including sex, violates these laws.

IN GENERAL

1. **Applicability and Sanctions for Policy Violations** – *Although this general order only applies to employees of SUDPS, it is derived in part from Stanford University's administrative guidelines that are applicable to all students, faculty and staff of Stanford University, as well as to others who participate in Stanford*

programs and activities. Its application includes Stanford programs and activities both on and off-campus, including overseas programs. Thus, SUDPS employees who violate this policy are subject to discipline up to and including discharge, expulsion, and/or other appropriate sanction or action under this general order as well as the university's policy.

2. **Respect for Each Other** - Stanford University strives to provide a place of work and study free of sexual harassment, intimidation or exploitation. It is expected that students, faculty, staff and other individuals covered by this policy will treat one another with respect.
3. **Prompt Attention** - Reports of sexual harassment are taken seriously and will be dealt with promptly. The specific action taken in any particular case depends on the nature and gravity of the conduct reported, and may include intervention, mediation, investigation and the initiation of grievance and disciplinary processes as discussed more fully below. Where sexual harassment is found to have occurred, the University will act to stop the harassment, prevent its recurrence, and discipline and/or take other appropriate action against those responsible.
4. **Confidentiality** - The University recognizes that confidentiality is important. Sexual harassment advisers and others responsible to implement this policy will respect the confidentiality and privacy of individuals reporting or accused of sexual harassment to the extent reasonably possible. Examples of situations where confidentiality cannot be maintained include circumstances when the University is required by law to disclose information (such as in response to legal process) and when disclosure is required by the University's outweighing interest in protecting the rights of others.
5. **Protection Against Retaliation** - Retaliation and/or reprisals against an individual who in good faith reports or provides information in an investigation about behavior that may violate this policy are against the law and will not be tolerated. Intentionally making a false report or providing false information, however, is grounds for discipline.
6. **Relationship to Freedom of Expression** - Stanford is committed to the principles of free inquiry and free expression. Vigorous discussion and debate are fundamental to the University, and this policy is not intended to stifle teaching methods or freedom of expression generally, nor will it be permitted to do so. Sexual harassment, however, is neither legally protected expression nor the proper exercise of academic freedom; it compromises the integrity of the University, its tradition of intellectual freedom and the trust placed in its members.

WHAT CONSTITUTES HARASSMENT

Harassment includes but is not limited to:

1. **Verbal Harassment** - Epithets, derogatory comments or slurs on the basis of race, religion, color, national origin, ancestry, handicap, physical or mental disability, medical condition, marital status, sex, age or sexual orientation. This includes inappropriate sex oriented comments on appearance, including dress or physical features, or race oriented jokes or stories.
2. **Physical Harassment** - Assault, impeding or blocking movement, or physically interfering with normal work when directed at an individual on the basis of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age, sex or sexual orientation. This includes conduct in the form of pinching, grabbing, patting, propositioning, leering, or making explicit or implied job threats or promises in return for submission to physical acts.
3. **Visual Forms of Harassment** - Derogatory posters, notices, bulletins, cartoons, or drawings ridiculing or focused on race, religion, color, national origin, ancestry, disability, medical conditions, marital status, sex, age or sexual orientation.
4. **Sexual Favors** - Inappropriate and unwelcome sexual advances, requests for sexual favors, and other *visual*, verbal or physical conduct of a sexual nature that form the basis of an employment decision, unreasonably interfere with an individual's work performance or create an offensive, *intimidating, or hostile academic, work or student living* environment.

GUIDELINES FOR IDENTIFYING SEXUAL HARASSMENT

To help clarify what is unlawful sexual harassment, the State Department of Fair Employment and Housing, the Federal Equal Employment Opportunity Commission and the courts use the following guidelines:

1. Sexual harassment is conduct of a sexual nature which is “unwelcome.”
2. Sexually harassing conduct may take the form of visual, verbal, physical and/or creation of hostile environment. It need not be explicit, nor even specifically directed at the victim.

3. It is irrelevant whether the victim has “consented” to engage in sexual conduct or whether the victim's agreement was “voluntary” so long as the conduct was “unwelcome.”

Courts use the “reasonable ” standard in determining whether sexual harassment has occurred.

4. Sexual harassment occurs when:
 - a. Submission to sexual conduct is an explicit or implicit term or condition of an individual's employment;
 - b. The submission to or rejection of sexual conduct by an individual is the basis for any employment decision affecting that individual; or
 - c. Sexual advances, requests for sexual favors, verbal or physical conduct of a sexual nature or display of audio or visual material of a sexual nature have the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

PROCEDURE

A. DEALING WITH SEXUAL HARASSMENT

The following are the primary methods for dealing with sexual harassment at Stanford. They are not required to be followed in any specific order. However, early informal methods are often effective in correcting questionable behavior.

1. **Consultation**— *Consultation about sexual harassment is available from the Sexual Harassment Policy Office, Sexual Harassment Advisers (including residence deans), human resources officers, employee relations specialists, counselors at Counseling and Psychological Services (CAPS) or the Help Center, chaplains at Memorial Church, ombudspersons and others. A current list of Sexual Harassment Advisers is available from the Sexual Harassment Policy Office and at <http://harass.stanford.edu/index.html#Advisers>. Consultation is available for anyone who wants to discuss issues related to sexual harassment, whether or not "harassment" actually has occurred, and whether the person seeking information is a complainant, a person who believes his or her own actions may be the subject of criticism (even if unwarranted), or a third party. Often there is a desire that a consultation be confidential or "off the record." This can usually be achieved when individuals discuss concerns about sexual harassment without identifying the other persons involved, and sometimes even*

without identifying themselves. Confidential consultations about sexual

harassment also may be available from persons who, by law, have special professional status, such as:

- Counselors at Counseling and Psychological Services (CAPS), <http://caps.stanford.edu/>
- Counselors at the Help Center, <http://www.stanford.edu/dept/helpcenter/>
- Chaplains at Memorial Church
- The University Ombudsperson, <http://www.stanford.edu/dept/ocr/ombuds/>
- The Medical Center Ombudsperson, <http://www.med.stanford.edu/ombuds/>

In these latter cases, the level of confidentiality depends on what legal protections are held by the specific persons receiving the information and should be addressed with them before specific facts are disclosed For more information see:

<http://harass.stanford.edu/SHissues.html#CONRESOURCES>

2. **Direct Communication** — *An individual may act on concerns about sexual harassment directly, by addressing the other party in person or writing a letter describing the unwelcome behavior and its effect and stating that the behavior must stop. A Sexual Harassment Adviser can help the individual plan what to say or write, and likewise can counsel persons who receive such communications. Reprisals against an individual who in good faith initiates such a communication violate this policy.*
3. **Third Party Intervention** — *Depending on the circumstances, third party intervention in the workplace, student residence or academic setting may be attempted. Third party interveners may be the Sexual Harassment Advisers, human resources professionals, the ombudspersons, other faculty or staff, or sometimes mediators unrelated to the University.*

When third party intervention is used, typically the third party (or third parties) will meet privately with each of the persons involved, try to clarify their perceptions and attempt to develop a mutually acceptable understanding that can insure that the parties are comfortable with their future interactions. Other processes, such as a mediated discussion among the parties or with a supervisor, may also be explored in appropriate cases.

Possible outcomes of third party intervention include explicit agreements about future conduct, changes in workplace assignments, substitution of one class for another, or other relief, where appropriate.

4. **Formal Grievance, Appeal, and Disciplinary Processes** — *Grievance, appeal, or disciplinary processes may be pursued as applicable.*
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- a. Grievances and Appeals** — *The applicable procedure depends on the circumstances and the status of the person bringing the charge and the person against whom the charge is brought. Generally, the process consists of the individual’s submission of a written statement, a process of fact-finding or investigation by a University representative, followed by a decision and, in some cases, the possibility of one or more appeals, usually to Stanford administrative officers at higher levels. The relevant procedure (see below) should be read carefully, since the procedures vary considerably. If the identified University fact-finder or grievance officer has a conflict of interest, an alternate will be arranged, and the Director of the Sexual Harassment Policy Office or the Director of Employee and Labor Relations can help assure that this occurs. In most cases, grievances and appeals must be brought within a specified time after the action complained of. While informal resolution efforts will not automatically extend the time limits for filing a grievance or appeal, in appropriate circumstances the complainant and the other relevant parties may mutually agree in writing to extend the time for filing a grievance or appeal. A list of the established grievance and appeal procedures is located at:*

http://hrweb.stanford.edu/elr/policies/list_grievance_procedures.html.

Copies may also be obtained from the Sexual Harassment Policy Office, <http://harass.stanford.edu/>.

Copies of the following may be obtained from Employee & Labor Relations, 651 Serra Street:

- “Solving Workplace Problems at Stanford: Understanding the Staff Dispute Resolution Policy”
- “Solving Workplace Problems at Stanford: Information for Academic Staff – Librarians and Academic Staff – Research Associates”
- “The Dispute Resolution Process (A User’s Guide)”

- b. Disciplinary Procedures** — *In appropriate cases, disciplinary procedures may be initiated. The applicable disciplinary procedure depends on the status of the individual whose conduct is in question. For example, faculty are subject to the Statement on Faculty Discipline <http://www.stanford.edu/dept/provost/faculty/policies/handbook/ch4.html#statementonfacultydiscipline> and students to the Fundamental Standard. For additional information related to student judicial affairs, see <http://www.stanford.edu/dept/vpsa/judicialaffairs/>. The individuals*
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referenced in this section are available to discuss these options and differing methods for dealing with sexual harassment.

B. PROCEDURAL MATTERS

- 1. Reporting** - Any employee who feels he or she has been the victim of illegal harassment, including sexual harassment, should contact his or her supervisor, department head, *the Sexual Harassment Policy Office*, or any *Sexual Harassment Adviser*. *Reports should be made as soon as possible: the earlier the report, the easier it is to investigate and take appropriate remedial action. When reports are long delayed, the University will try to act to the extent it is reasonable to do so, but it may be impossible to achieve a satisfactory result after much time has passed.* Any supervisor, manager or department head who receives a complaint should notify the *Sexual Harassment Policy Office* immediately. This initial report can be oral or written.

External Reporting - *Sexual harassment is prohibited by state and federal law. In addition to the internal resources described above, individuals may pursue complaints directly with the government agencies that deal with unlawful harassment and discrimination claims, e.g., the U.S. Equal Employment Opportunity Commission (EEOC), the Office for Civil Rights (OCR) of the U.S. Department of Education, and the State of California Department of Fair Employment and Housing (DFEH). These agencies are listed in the Government section of the telephone book. A violation of this policy may exist even where the conduct in question does not violate the law.*

- 2. Investigations** - *The Stanford University Department of Public Safety has an obligation to, and will, investigate all complaints. The investigation will be conducted in a way that respects, to the extent possible, the privacy of all of the persons involved. In appropriate cases, professional investigators may be asked to assist in the investigation. The results of the investigation may be used in the third party intervention process or in a grievance or disciplinary action.*
 - 3. Disciplinary Action** - *If, upon completion of the investigation it is determined that harassment occurred, appropriate disciplinary action up to and including termination may be taken. The Director of Public Safety will determine what, if any, disciplinary action will be taken, dependent upon the severity and/or frequency of the offense.*
 - 4. Appeals** - *Disciplinary action taken under this procedure may be appealed with or without representation, subject to appeal or grievance procedures indicated in applicable Labor Agreements or University Personnel Rules and Regulations.*
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5. **Recordkeeping** - *The Sexual Harassment Policy Office will track reports of sexual harassment for statistical purposes and report at least annually to the University President concerning their number, nature and disposition. The Sexual Harassment Policy Office may keep confidential records of reports of sexual harassment and the actions taken in response to those reports, and use them for purposes such as to identify individuals or departments likely to benefit from training so that training priorities can be established. No identifying information will be retained in cases where the individual accused was not informed that there was a complaint.*

6. **Indemnification and Costs** - *The question sometimes arises as to whether the University will defend and indemnify a Stanford employee accused of sexual harassment. California law provides, in part, "An employer shall indemnify [its] employee for all that the employee necessarily expends or loses in direct consequence of the discharge of his [or her] duties as such" The issue of indemnification depends on the facts and circumstances of each situation. Individuals who violate this policy, however, should be aware that they and/or their schools, institutes, or other units may be required to pay or contribute to any judgments, costs and expenses incurred as a result of behavior that is wrongful and/or contrary to the discharge of the employee's duties. In general, see Administrative Guide Memo 15.7*

C. CONSENSUAL SEXUAL OR ROMANTIC RELATIONSHIPS

In general, there are special risks in any sexual or romantic relationship between individuals in inherently unequal positions, and parties in such a relationship assume those risks. In the University context, such positions include (but are not limited to) teacher and student, supervisor and employee, senior faculty and junior faculty, mentor and trainee, adviser and advisee, teaching assistant and student, coach and athlete, and the individuals who supervise the day-to-day student living environment and student residents. Because of the potential for conflict of interest, exploitation, favoritism, and bias, such relationships may undermine the real or perceived integrity of the supervision and evaluation provided, and the trust inherent particularly in the teacher-student context. They may, moreover, be less consensual than the individual whose position confers power or authority believes. The relationship is likely to be perceived in different ways by each of the parties to it, especially in retrospect.

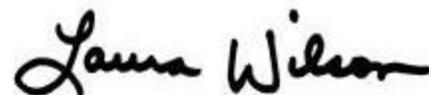
Moreover, such relationships may harm or injure others in the academic or work environment. Relationships in which one party is in a position to review the work or influence the career of the other may provide grounds for complaint by third parties when that relationship gives undue access or advantage, restricts opportunities, or creates a perception of these problems. Furthermore, circumstances may change, and conduct that was previously welcome may become

unwelcome. Even when both parties have consented at the outset to a romantic involvement, this past consent does not remove grounds for a charge based upon subsequent unwelcome conduct.

Where such a relationship exists, the person in the position of greater authority or power will bear the primary burden of accountability, and must ensure that he or she - and this is particularly important for teachers - does not exercise any supervisory or evaluative function over the other person in the relationship. Where such recusal is required, the recusing party must also notify his or her supervisor, department chair or dean, so that such chair, dean or supervisor can exercise his or her responsibility to evaluate the adequacy of the alternative supervisory or evaluative arrangements to be put in place. (Staff members may instead, as an option, notify their local human resources officer.) To reiterate, the responsibility for recusal and notification rests with the person in the position of greater authority or power. Failure to comply with these recusal and notification requirements is a violation of this policy, and therefore grounds for discipline.

D. EMPLOYEE RESPONSIBILITIES

- 1. Individual Employee** - Any *SUDPS* employee who is either the victim of, or observes harassment shall report the circumstances of such harassment to his or her immediate supervisor or to any other managerial employee, the *Director of Public Safety* or to the *Sexual Harassment Policy Office* as provided in the above procedure.
- 2. Management and Supervisory Employees** - Management and supervisory personnel are responsible for ensuring that the work environment is free of harassment as herein defined, including sexual harassment, by:
 - a.** informing all employees under their direction of the *University's* policy and complaint procedure
 - b.** reporting any instances of harassment, including sexual harassment, to the *Director of Public Safety*.
 - c.** based on the findings of the investigation, taking appropriate disciplinary action.
- 3. Sexual Harassment Policy Office** - The *Sexual Harassment Policy Office* is responsible for administering the complaint procedure, authorizing and/or conducting an investigation and, in consultation with the *Director of Public Safety*, and recommending disciplinary action commensurate with the severity of the offense.



LAURA WILSON
DIRECTOR

