



THE GEORGE
WASHINGTON
UNIVERSITY
WASHINGTON DC

Responsible University Official: Senior Vice President and General Counsel
Responsible Office: Office of the Senior Vice President and General Counsel
Origination Date: April 1999

SEXUAL HARASSMENT AND SEXUAL VIOLENCE INTERIM POLICY AND PROCEDURES

Policy Statement

The George Washington University is committed to maintaining a positive climate for study and work, in which individuals are judged solely on relevant factors, such as ability and performance, and can pursue their activities in an atmosphere that is free from coercion, intimidation and violence. The university mission statement provides that the university "values a dynamic, student-focused community stimulated by cultural and intellectual diversity and built upon a foundation of integrity, creativity, and openness to exploration of new ideas." The university is committed to free inquiry, free expression, and the vigorous discussion and debate on which advancement of its mission depends. Sexual harassment is destructive of such a climate and will not be tolerated in the university community.

Reason for Policy

The purpose of this policy document is to inform members of the university community about sexual harassment, including sexual violence, and explain what they can do if they encounter or observe it in connection with any university program or activity.

Who Needs to Know This Policy

Faculty, staff and students.

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Policy/Procedures

Objectives

This policy document is intended to inform members of the university community, including guests and visitors, about sexual harassment, including sexual violence, and the procedures they should follow if they encounter or observe it. The university prohibits sexual harassment by any student, staff member, faculty member, and others in the university community; encourages reporting of sexual harassment before it becomes severe or pervasive; identifies persons to whom sexual harassment may be reported; prohibits retaliation against persons who bring sexual harassment complaints; assures confidentiality to the extent possible consistent with the need to address and resolve harassment appropriately; assures all members of the university community that each complaint of sexual harassment will receive an adequate, reliable, and impartial investigation; and provides for appropriate corrective action.

The ultimate goal is to prevent sexual harassment through education and the development of a sense of community. However, if sexual harassment occurs, the university will respond firmly and fairly, and in a timely manner. As befits an academic community, the university's approach is to consider problems within an informal framework when appropriate, but to make formal procedures available for use when necessary.

What Sexual Harassment Is

The university has adopted the following definition of sexual harassment based on guidance from the Equal Employment Opportunity Commission and Department of Education:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) Submission to such conduct is explicitly or implicitly made a term or condition of academic participation or activity, educational advancement, or employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions that affect the individual; (3) such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or limiting participation in University programs; or (4) the intent or effect of such conduct is to create an intimidating, hostile, or offensive academic or work environment. Sexual harassment may occur regardless of either party's gender. Sexual harassment includes sexual violence and other physical sexual acts (including, for example, sexual assault) that are perpetrated against a person's will or without a person's consent, or when a person is incapable of giving consent due to the ingestion of drugs or alcohol, or due to the person's intellectual or other disability.

Depending on the particular circumstances, sexual harassment may include, but is not limited to, the following:

1. Actual or attempted rape, sexual assault, sexual battery or molestation, without consent or against another's will, whether achieved through force, threat or intimidation, or advantage gained by the aggrieved party's mental or physical incapacity or impairment.
2. Non-consensual or forcible sexual touching.
3. Offering or implying an employment-related reward (such as a promotion, raise, or different work assignment) or an education-related reward (such as a better grade, a letter of recommendation, favorable treatment in the classroom, assistance in obtaining employment, grants or fellowships, or admission to any education program or activity) in exchange for sexual favors or submission to sexual conduct.
4. Threatening or taking a negative employment action (such as termination, demotion, denial of an employee benefit or privilege, or change in working conditions) or negative educational action (such as giving an unfair grade, withholding a letter of recommendation, or withholding assistance with any educational activity) or intentionally making the individual's job or academic work more difficult because submission to sexual conduct is rejected.
5. Unwelcome sexual advances, repeated propositions or requests for a sexual relationship to an individual who has previously indicated that such conduct is unwelcome, unwelcome physical contact of a sexual nature, or sexual gestures, noises, remarks, jokes, questions, or comments about a person's sexuality that would reasonably be perceived as creating a hostile or abusive work environment. A single incident involving severe misconduct may rise to the level of harassment.

This policy addresses only sexual harassment, including sexual violence, and does not address other forms of gender discrimination. For other university policies dealing with gender discrimination, contact the university's Office of Equal Employment Opportunity and Affirmative Action, Suite 320, 2033 K Street, NW, Washington, DC 20052.

Nothing in this policy limits academic freedom, guaranteed by the Faculty Code, which is a pre-eminent value of the university. This policy shall not be interpreted to abridge academic freedom. Accordingly, in an academic setting expression that is reasonably designed or reasonably intended to contribute to academic inquiry, education or debate on issues of public concern shall not be construed as sexual harassment.

A person who commits sexual harassment in violation of this policy will be subject to disciplinary action, up to and including expulsion or termination.

Dissemination of This Policy

The university is committed to preventing and remedying sexual harassment of students, faculty, and staff. To that end, the university has appointed individuals to oversee

compliance with applicable federal and local laws, including Title IX, as well as this policy and the procedures described herein. The Title IX Coordinator will oversee dissemination of this policy and these procedures to the university community. In addition, the university will sponsor programs to inform students, faculty, and staff about sexual harassment and the problems it causes; advise members of the university community of their rights and responsibilities under this policy and these procedures; and train personnel responsible for the administration of the policy and procedures. In particular, the university shall ensure that the Title IX Coordinator, Deputy Title IX Coordinator, and Assistant Title IX Coordinators and other personnel involved in responding to allegations of sexual harassment receive formal training by one or more individuals with appropriate expertise.

Consensual Relationships

Relationships that are welcomed by the parties do not entail sexual harassment, and are beyond the scope of this policy. Whether a relationship is in fact welcomed will be gauged according to the circumstances; special risks are involved when one party – whether a faculty member, staff member or student – is in a position to evaluate or exercise authority over the other. It is inappropriate for a faculty member or teaching assistant to have a sexual relationship with a student who is currently in his/her course or is subject to his/her supervision or evaluation. It is similarly inappropriate for someone in a supervisory position to have a sexual relationship with an individual in a subordinate position. Even when both parties previously consented to a sexual relationship, a charge of sexual harassment may be based on subsequent conduct that one of them does not welcome. Members of the university community are cautioned that consensual relationships can in some circumstances entail abuse of authority, conflict of interest, or other adverse consequences that may be addressed in accordance with pertinent university policy and practice.

Addressing Sexual Harassment

Members of the university community who believe they have been sexually harassed may seek redress through one or more of the following means: consultation, administrative review, and formal hearing. Often, concerns can be resolved through consultation or after administrative review. If the matter is not satisfactorily resolved using these procedures, a formal hearing may be initiated.

Members of the university community who experience one or more instances of conduct of a sexual nature that may be inappropriate (even if the person is unsure whether the conduct constitutes sexual harassment) may discuss the matter with the person who has engaged in the behavior, and are encouraged to discuss it with the appropriate department chair, dean, or staff supervisor, the Dean of Students, the Title IX Coordinator, the Deputy Title IX Coordinator, or an Assistant Title IX Coordinator (see the list under Contacts on page 7). However, in cases involving allegations of sexual violence, discussion with the person who engaged in the behavior is discouraged. Anyone who

observes conduct of this nature directed at other persons should bring it to the attention of one or more of the university officials listed in this paragraph.

I. Consultation

Any university official or individual with responsibilities under this policy who receives a report of possible sexual harassment shall advise the reporting person of the opportunity to consult with the Sexual Harassment Response Coordinator (“Response Coordinator”). During consultation, the person who alleges sexual harassment will be provided with a copy of the university’s Sexual Harassment and Sexual Violence Policy and Procedures, have an opportunity to ask questions about them, and obtain assistance in developing strategies to deal with the matter. See Appendix A.

II. Administrative Review

Any member of the university community who believes that he or she has been sexually harassed by a university employee, student or third party in connection with any university program or activity may file a complaint against that person. The allegations will be carefully investigated and an effort will be made to resolve the complaint in accordance with the procedures set forth in Appendix B.

III. Formal Hearing Procedure

The formal hearing procedure set forth in Appendix C is available when the administrative review procedure fails to resolve a complaint of sexual harassment. The person who made the sexual harassment complaint (the “Complainant”) or a responsible university official may initiate a formal hearing against the person who allegedly engaged in sexual harassment (the “Respondent”). When both the Complainant and the Respondent are students, the procedures set forth in Section 1 of Appendix C will govern the formal hearing procedure. In all other cases the procedures set forth in Section 2 of Appendix C will govern the formal hearing procedure.

Outcomes

When allegations of sexual harassment are addressed through either the administrative review procedure or the formal hearing procedure, both parties will receive concurrent written notice of the outcome. When either procedure results in a determination that sexual harassment occurred, the findings and recommendations shall be referred to the appropriate university official for imposition of corrective action and sanctions as appropriate.

In cases involving Respondents who are students, any such corrective action or sanctions shall be determined by the Office of Student Rights and Responsibilities. In cases involving suspension or expulsion of a student, the Senior Associate Provost and Dean of

Student Affairs, in concurrence with the Provost and Executive Vice President for Academic Affairs, will impose sanctions. In cases involving GW faculty and staff, no final sanction except a written reprimand may be imposed based on an administrative review without the Respondent's written consent. Corrective actions are non-punitive measures that may include, without limitation, training, guidance, adjustment of supervisory or evaluative responsibilities (including administrative leave with full pay and benefits), and measures to protect health and safety. A range of relevant considerations should be taken into account in determining the extent of sanctions, such as the severity of the offense, the effect of the offense on the victim and on the university community, and the Respondent's record of past offenses, if any. Sanctions may include, but are not limited to, a written reprimand, disciplinary probation, suspension, expulsion, or termination of employment; provided that a tenured faculty member may not be dismissed except in accordance with the procedures set forth in Section F of the Procedures for Implementation of the Faculty Code. The university may impose interim corrective action at any time, if doing so reasonably appears required to protect a member of the university community.

Redress of Disciplinary Action

Nothing in this policy or these procedures shall be deemed to revoke any right that any member of the GW faculty or staff may have to seek redress of a disciplinary action, such as a faculty member's right to maintain a grievance under the Faculty Code.

Confidentiality

Investigators and decision-makers will strive to maintain confidentiality to the full extent appropriate, consistent with applicable law and the need to resolve matters effectively and fairly and protect the university community. All persons involved in the proceedings will be advised of the need for discretion and confidentiality. Inappropriate breaches of confidentiality may result in disciplinary action.

In some cases Complainants may request that their names be kept confidential during the consultation (Appendix A) and administrative review (Appendix B) stages. The university will do so as long as it does not prevent the university from responding effectively to the incident and protecting other members of the campus community. If the Respondent is a student the Complainant may choose to reiterate his or her request for confidentiality at the formal hearing stage (Appendix C), but will be told that the university's ability to proceed with the hearing may be limited as a result. If the Respondent is a member of the GW faculty or staff, the Complainant whose name has not been released earlier will be required to permit release of such information to the Respondent in order for the Complainant to initiate the formal hearing procedure.

Retaliation

Retaliation against a person who reports or complains of sexual harassment or provides information in a sexual harassment investigation or proceeding is prohibited by law.

Allegations of retaliation will be investigated and may result in disciplinary action up to and including termination or expulsion.

False Claims

A person who knowingly makes false allegations of sexual harassment, or who knowingly provides false information in a sexual harassment investigation or proceeding, will be subject to disciplinary action.

Time Limits

The university aims to administer this policy and these procedures in an equitable and timely way. The time limits set forth herein may be extended for good cause, upon request. Persons making allegations of sexual harassment are encouraged to come forward without undue delay.

Interpretation of Policy

The Office of the Senior Vice President and General Counsel (202-994-6503) is available to provide advice on questions regarding interpretation of this policy and the procedures described herein.

Website Address

[GW University Policies](#)

Contacts

Title IX Coordinator:

Vice Provost for Diversity and Inclusion	(202) 994-7440	diverse@gwu.edu
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Deputy Title IX Coordinator:

Sexual Harassment Response Coordinator	(202) 994-2657	taraw@gwu.edu
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Assistant Title IX Coordinators:

Assistant Vice Provost, Faculty		
Recruitment & Personnel Relations	(202) 994-6783	abwool@gwu.edu
Associate Dean of Students, Administrative		
Services & Senior Advisor	(202) 994-6710	kermit@gwu.edu
Associate Director, EEO &		
Affirmative Action	(202) 994-9652	bradyr@gwu.edu
Senior Associate Director of Athletics	(202) 994-5896	athmjl@gwu.edu

Related Information

[Code of Student Conduct](#)

[Equal Employment Opportunity/Affirmative Action Statement](#)

[Non-Retaliation Policy](#)

[Faculty Code](#)

[Staff grievance procedures](#)

Appendices

Appendix A	Consultation Procedure
Appendix B	Administrative Review
Appendix C	Formal Hearing Procedure

Who Approved This Policy

Louis Katz, Executive Vice President and Treasurer

Steven Lerman, Provost and Executive Vice President for Academic Affairs

Beth Nolan, Senior Vice President and General Counsel

History/Revision Dates

Origination Date: April 1999

Last Amended Date: November 2005

Next Review Date:

Appendix A

Consultation Procedure

1. The consultation consists of one or more voluntary meetings between the Response Coordinator and the person who requests the consultation based on one or more instances of a sexual nature that may be inappropriate.
2. During the consultation, a copy of the Sexual Harassment and Sexual Violence Policy and Procedures will be provided and questions about them will be answered. Other matters may also be addressed or clarified, and the person alleging sexual harassment will be offered assistance in developing strategies to deal with the matter, including counseling. The outcome of the consultation may be that no further action is necessary, or the administrative review procedure under Appendix B may be initiated.
3. A record of the consultation will be prepared and maintained. The record will be considered confidential to the full extent consistent with fairness, applicable law, and the university's need to take preventive and corrective action (see also "Confidentiality" above). If the record of the consultation includes an allegation of sexual harassment against a person named in the record, the record will not be disclosed to any person other than the Response Coordinator, the Title IX Coordinator, and the Office of the Senior Vice President and General Counsel, unless the person so named is notified in writing. Absent compelling reason to the contrary, any such notification shall precede the disclosure.
4. When the Response Coordinator has reason to believe that criminal conduct may have occurred or that action is necessary to protect the health or safety of any individual or to comply with applicable law, the university may, as the Office of the Senior Vice President and General Counsel determines, refer the matter to appropriate authorities.
5. Persons who believe they have been subjected to or who otherwise have observed sexual harassment are encouraged to seek assistance from the university through these procedures promptly. As discussed in Appendix B, a person who wishes to file a complaint alleging sexual harassment and invoke administrative review ordinarily must do so within 180 days of when the harassment occurred, although this time period will be extended if before doing so the person seeks assistance through consultation. In that event the time to file a complaint will be extended for the period of time required for the consultation to be concluded.

Appendix B

Administrative Review

1. Following consultation, or if consultation is not sought, a member of the university community who believes that he or she has been sexually harassed by a university employee or student or third party may file a complaint against the person believed to have engaged in the harassing conduct.
2. Complaints of sexual harassment by students against other students must be filed with the GW Office of Student Rights and Responsibilities (“SRR”), 2129 I Street, NW, Washington, DC 20052, Tel. (202) 994-6758. All other complaints must be filed with the Response Coordinator, Suite 403, 2121 Eye Street, NW, Washington, DC 20052, Tel. (202) 994-2657. Complaints must be filed within 180 days of when the harassment occurred, unless the person alleging sexual harassment (the “Complainant”) can demonstrate good cause to the SRR or Response Coordinator why the complaint could not have been filed within this period.
3. To file a complaint, the Complainant will be asked to provide a signed statement containing a factual account of the alleged harassment. The SRR or Response Coordinator may assist the Complainant in preparing this statement. If the Complainant declines to provide a signed statement, a written summary of the Complainant’s oral allegations may be prepared.
4. After the complaint is filed, the person who is accused of harassment (the “Respondent”) will be provided with a written summary of the material allegations. The Title IX Coordinator will also be informed that the complaint has been filed and provided with the Complainant’s signed statement or written summary.
5. The SRR or Response Coordinator will conduct an adequate, reliable and impartial investigation of the alleged harassment, typically within 30 days. Depending on the circumstances, the SRR or Response Coordinator may work with the GW Police Department to conduct the investigation and consult with other university offices with respect to it. The SRR or Response Coordinator will provide the Complainant and the Respondent with similar and timely opportunities to identify witnesses and provide evidence relevant to the complaint, and will advise the parties and any persons interviewed or notified about the alleged harassment of the need for discretion and confidentiality.
6. While the investigation is underway, the university may take interim action in response to the complaint, if appropriate. If the person accused is a student, this action could include interim suspension from the university or removal from university housing. Steps may also be taken to allow the person making the complaint to minimize or avoid contact with the accused person, change academic or living arrangements for one or both parties, or provide the complaining person with access to counseling, medical or academic support services.

7. After the investigation is completed, the SRR or Response Coordinator will attempt to determine whether an acceptable resolution of the matter may be achieved informally. If the matter involves a Respondent who is a member of the GW faculty or staff, the Response Coordinator will also discuss the matter with the university official who would be responsible for recommending any corrective and/or disciplinary action against the Respondent (“Responsible University Official”) and that person will assist in the effort to determine whether the matter may be resolved informally.
8. Informal resolution of a matter could involve corrective action and/or sanctions against the Respondent, or it could involve no further action. Informal resolution of a matter does not involve face-to-face mediation between the parties and either party may end his or her participation at any time. In cases involving Respondents who are members of the GW faculty or staff, no final sanction except a written reprimand may be taken based on an administrative review procedure without the Respondent’s written consent. Any corrective action or sanction imposed by a Responsible University Official must be within his or her discretion and consistent with his or her authority. The university may also take interim corrective action during this period if doing so reasonably appears to be required to protect a member of the university community.
9. The SRR or Responsible University Official will provide concurrent written notice to the Complainant and Respondent of the outcome of the administrative review procedure, subject to any legal restrictions regarding confidentiality. (See section in Policy entitled “Confidentiality” for limitations on disclosure of information.)
10. If the matter is not resolved informally, the SRR or Responsible University Official shall determine whether to initiate a formal hearing against the Respondent as set forth in Appendix C.
11. If the matter is not resolved informally, and the SRR or Responsible University Official decides not to initiate a formal hearing against the Respondent, or the matter is resolved informally and the Complainant is dissatisfied with that resolution, the Complainant may request further review as set forth in Appendix C.

Appendix C

Formal Hearing Procedure

Section 1 – Students

1. If a student's complaint of sexual harassment against another student is not resolved through the administrative review procedure, the SRR will determine, based on the complaint and the investigation, whether to charge the Respondent with violating the GW Code of Student Conduct (the "Code"). SRR will make this determination within 30 days of when it completes the administrative review procedure, and it will communicate its decision in writing to the Complainant and the Respondent. Upon request, SRR will also provide both parties with access to witness statements and documents obtained in connection with the investigation that are relevant to the complaint, to the extent permitted by law.
2. If a student's complaint of sexual harassment against another student is not resolved through the administrative review procedure, and the SRR decides not to charge the Respondent with violating the Code, or the student's complaint of sexual harassment against another student is resolved through the administrative review procedure, and the Complainant is dissatisfied with that resolution, the Complainant may appeal that decision or resolution by submitting a letter that fully explains all reasons for the appeal to the Response Coordinator, 403 Rice Hall, 2121 I Street, NW, Washington, DC 20052. The appeal must be filed within 5 business days of the date the Complainant receives from the SRR notice of the outcome of the administrative review procedure. The SRR will provide the appeal to the Respondent, who shall be permitted to file a response to the appeal within 5 business days of when the appeal is received. The Response Coordinator will evaluate the appeal and notify the Complainant and Respondent in writing whether it has been granted or denied. This determination by the Response Coordinator will generally be made within 20 business days of when the appeal has been received. That determination is final and may not be further appealed.
3. Students should be aware that when the Response Coordinator grants an appeal of a decision by the SRR not to charge the other student with violating the Code it does not mean that the student has violated the Code or will be sanctioned. Instead, it means that a charge will now be made and disciplinary proceedings will be conducted on that charge. The student will only be found in violation if the hearing board or conference officer is persuaded by a preponderance of the evidence that the student has committed the violation charged.
4. If the SRR charges the Respondent with violating the prohibitions in the Code on sexual violence and/or sexual misconduct, disciplinary proceedings will be

commenced against that student according to the procedures outlined in the Code and in this Section of the Sexual Harassment and Sexual Harassment Policy and Procedures. If there is any conflict between the procedures outlined in the Code and the procedures outlined in the Sexual Harassment and Sexual Violence Policy and Procedures, the latter will govern.

5. In cases where a student has filed a sexual harassment complaint against another student, the Complainant may choose to be a party in the disciplinary hearing or conference conducted on that charge. In these cases, the Complainant will be given a timely opportunity, similar to the Respondent's, to present and question other witnesses and offer relevant evidence to the hearing board or conference officer.
6. In cases involving charges of sexual violence by one student against another student, neither the Complainant nor the Respondent will be permitted to question the other directly. Instead, any questions that the Complainant or the Respondent want to ask the other must be written out and provided to the presiding officer, who will read the questions while the party who provided the questions listens from a separate location.
7. In cases involving charges of sexual violence and/or sexual misconduct, the parties will have similar and timely access to witness statements and other documents gathered in connection with the investigation of the complaint that the SRR intends to use in the hearing or conference, to the extent permitted by law. SRR will inform the Complainant and Respondent in writing of the outcome of the hearing or conference, and any sanction that has been imposed that relates directly to the Complainant.
8. As a general practice the SRR attempts to complete disciplinary proceedings on charges of sexual violence and/or sexual misconduct within 45 days. However, completing these proceedings may take longer in individual cases, depending on the circumstances involved, the complexity of the facts, the availability of witnesses, and other factors.
9. The parties will have a similar and timely opportunity to appeal the outcome of the disciplinary hearing or conference, to the extent permitted by law, although not the sanction imposed, if any. Appeals will be conducted according to the procedure outlined in the Code of Student Conduct. As a general practice, the appeal panel will attempt to reach its decision within 45 days from the date the appeal is filed, although additional time may be required in individual cases depending on the circumstances involved, the complexity of the facts, the availability of witnesses, and other factors. The decision of the appeal panel will be communicated in writing to the Complainant and Respondent within this period. That decision, and the outcome and sanctions (if any) resulting from any new hearing or conference

ordered by the appeal panel in connection with the appeal shall be final and conclusive and no further appeals will be permitted.

10. All of the time periods discussed in this Appendix C.1. of the Sexual Harassment and Sexual Violence Policy and Procedures and the Code of Student Conduct will be suspended if either the fall or spring semester ends while proceedings on a student's complaint of sexual harassment against another student are pending. Those periods will then resume when the next fall or spring semester begins. In addition, if the university has taken interim steps in response to a complaint of sexual harassment, such as making it possible for a Complainant to minimize or avoid contact with a Respondent, those steps will remain in effect during the suspension period. The university may also take additional interim steps in response to a complaint, if appropriate, during this period.
11. In cases where the university is unable to complete its work within the time periods discussed herein, and believes substantial additional time will be required to do so, it will notify the affected party or parties and explain that further time is required.
12. It is important to note that federal law prohibits unlawful retaliation against any student who files a complaint alleging sexual harassment, participates in an investigation of any complaint alleging sexual harassment, or otherwise asserts the right to an educational environment free of sexual harassment.

Section 2 – Special Panels

A. Initiation of Special Panel Procedure

1. In all cases not covered by Section 1 of Appendix C, if a complaint of sexual harassment is not resolved through the administrative review procedure, or is resolved through that procedure but the Complainant is dissatisfied with that resolution, the Complainant or Responsible University Official may initiate a formal hearing by filing a written request with the Vice President for Human Resources or his/her designee. In such cases the procedures set forth in this Section 2 of Appendix C shall apply, and if there is any conflict between these procedures and the procedures in Section 1 of Appendix C or the GW Code of Student Conduct, the procedures set forth in this Section 2 shall apply.
2. The request for a formal hearing must be filed within 30 days after receipt of information from the Responsible University Official of the disposition of the administrative review (see Appendix B). The written request for a formal hearing (the "formal complaint") must include a description of the material facts related to the alleged sexual harassment, must state why the

disposition of the matter should be modified or overturned, and may include a statement of the relief requested.

3. The Vice President for Human Resources will send a copy of the formal complaint, including the name of the person alleged to have been sexually harassed, to the Respondent.

B. Establishment of Special Panel Procedures

1. A formal complaint filed under Appendix C, Section 2, will be heard by a six-member panel selected by lot by the Vice President for Human Resources as described in Section C. Panelists will be selected from a pool of 18, six of whom are faculty members appointed by the Provost and Executive Vice President for Academic Affairs, with the concurrence of the Council of Deans and the Faculty Senate Executive Committee. If the concurrence does not occur within 30 days, the Provost and Executive Vice President for Academic Affairs and the Council of Deans shall select three of the faculty panel members, and Faculty Senate Executive Committee shall select the remaining three faculty panel members. Six members of the pool shall be staff employees appointed by the Vice President for Human Resources; and six members of the pool shall be students appointed by the Senior Associate Provost and Dean of Student Affairs.
2. Each appointee to the pool ordinarily will serve a two year term. The appointing official should stagger the appointments so that, if feasible, the terms of not more than five of his or her appointees expire in any year.
3. An appointee to the pool may be removed and replaced at any time, at the discretion of the appointing official. The appointing official should promptly fill vacancies in the pool according to the procedure in Section B.1 above.
4. The Vice President for Human Resources or designee will conduct mandatory training of all appointees to the pool at the time of appointment and periodically thereafter. No pool member shall receive such training while serving on a special panel. Training will address roles and responsibilities of panel members, hearing procedures, applicable policies, and other techniques and standards pertinent to the formal complaint and hearing process.

C. Selection of Panel

1. Within five business days after receiving the written request to proceed with a formal complaint (see A.1 above), the Vice President for Human Resources will select by lot the six-member panel from the pool. Two of the panel members will be drawn from the same status group as the Respondent; two panel members will be drawn from the same status group as the Complainant; and two panel members will be drawn from among the pool members in the

remaining status group(s). No member of a faculty member's department or of a staff member's administrative department may serve on the special panel.

2. The Vice President for Human Resources will notify the parties of the panelists' names. Within three business days of receipt of the notice, either party may submit to the Vice President for Human Resources a written objection to designation of any panel member. The objection must clearly state the reasons for the objection. The Vice President for Human Resources may, at his or her discretion, replace a challenged panelist with another member of the pool from the same status group.
3. A designated panelist who at any time has or may reasonably be perceived as having a conflict of interest is otherwise unable to serve on a special panel shall recuse himself or herself, and notify the Vice President for Human Resources of the recusal. For sound reasons, which shall be disclosed to the parties and panel members, the Vice President for Human Resources, in his or her discretion, may replace a panel member. The successor panel member shall be selected by lot by the Vice President for Human Resources from among pool members of the recused or replaced panel member's status group.

D. Special Panel Organization

1. Within five business days after their appointment, special panel members will select a chairperson and review the request for a hearing.
2. The special panel may request clarification or additional information from the Vice President for Human Resources or the parties. Panel members may not communicate with either party outside the presence of the other party. The special panel shall provide both parties with copies of all written communications sent to either party.

E. Scheduling Hearing

1. The special panel will set a hearing date and time. The panelists will meet within a reasonable time, normally with five business days after their appointment, to select a chairperson and set the hearing date and time. The hearing will be held within a reasonable time, normally within 20 business days after the special panel is appointed.
2. The special panel chairperson will notify the parties of the hearing date, time, and location at least ten business days before the hearing. Within two business days after receiving notice of the hearing, a party with a scheduling conflict may submit to the chairperson a request for postponement. The chairperson, after consulting the special panel members, has discretion to reschedule the hearing. All parties will be notified as soon as feasible if the hearing is rescheduled.

3. If a party does not appear for the hearing within 30 minutes after the scheduled time, the special panel will decide whether to reschedule the hearing or proceed.
4. Upon request the parties will be provided access to witness statements and other documents gathered in connection with the investigation of the complaint, to the extent permitted by law.

F. Conduct of Hearing

1. The special panel chairperson will preside at the hearing and decide procedural issues. Only persons participating in the proceeding may be present during the hearing except as otherwise provided in these procedures. The hearing will be conducted in the following sequence:
 - a) Preliminary matters. The Chairperson will introduce the parties, their advisors, and the special panel members; review the order of proceedings; explain procedures that govern use of the tape recorder; and present a brief summary of the formal complaint.
 - b) Opening statements. The party who requested the hearing may make an opening statement. The responding party may then make an opening statement. Each opening statement shall not exceed 15 minutes.
 - c) Presentation of formal complaint. The party who requested the hearing may present to the panel testimony, witnesses, documents or other evidence. Following the testimony of the party who requested the hearing, and of each witness, the responding party may ask questions.
 - d) Response to formal complaint. The party who responded to the formal complaint may present testimony, witnesses, documents or other evidence to the panel. Following the testimony of the responding party, and of each witness, the party who requested the hearing may ask questions. In cases of sexual violence, the special panel typically does not allow parties to question or cross-examine each other directly during the hearing, and instead requires that such questioning be conducted indirectly and/or from a separate location.
 - e) Closing statements. The party who requested the hearing may make a closing statement. The responding party may then make a closing statement. Each closing statement shall not exceed 15 minutes.
2. Special panel members may ask questions of parties or witnesses at any time during the hearing.

3. The hearing will not be conducted according to strict rules of evidence. However, the special panel chairperson may limit or exclude irrelevant or repetitive testimony, and may otherwise rule on what evidence may be offered. To determine whether a persistent pattern of harassment exists, the special panel may request that appropriate University officials (in consultation with the Office of the Senior Vice President and General Counsel) provide evidence subject to university policies and applicable laws, including the privacy of student education records, of prior written reprimands and/or sanctions imposed against the Respondent based on past incidents of sexual harassment as part of the hearing record.
4. When the hearing cannot be completed in one session, the special panel chairperson may continue the hearing to a later date and time.
5. The hearing will be recorded on audiotape. Either party may obtain from the Chief Human Resource Officer a copy of the recording at reasonable cost, on written request.

G. Witnesses

1. Each party (and the panel) may ask witnesses to testify at the hearing, but no person may be compelled to testify. However, each party shall have a right to know prior to the hearing the contents of and names of the authors of any written statements that may be introduced against him or her, and the right to rebut unfavorable inferences that might be drawn from such statements.
2. At least three business days before the hearing, each party must provide the chairperson, the Vice President for Human Resources and the other party a list of witnesses he or she intends to present at the hearing.
3. The special panel may request that additional witnesses appear. The Vice President for Human Resources will, if feasible, arrange for the appearance of these witnesses.
4. Each party is responsible for notifying its witnesses of the hearing date, time, and location. A hearing will not necessarily be postponed because a witness fails to appear.
5. In identifying persons to appear as witnesses, parties should be aware that live testimony is preferred and that the panel may give less weight to the evidence of a witness who is able but unwilling to appear.
6. All witnesses (except for the Complainant and the Respondent) will be excluded from the hearing before and after their testimony. A witness may be recalled at the discretion of the special panel chairperson.

7. A university employee must obtain permission from his or her supervisor to be absent from work to appear at a hearing. Employees will be paid for reasonable time spent while preparing for or appearing at a hearing during working hours, but not for other time spent on the complaint outside working hours.
8. A student must obtain permission from his or her professor to be absent from class to appear at a hearing.
9. Supervisors and professors should be aware of the importance of hearings and not unreasonably withhold permission to appear at a hearing. If an employee or student needs assistance in obtaining permission to appear at a hearing, he or she should contact the Vice President for Human Resources.

H. Advisors

1. Each party may be accompanied by not more than two advisors, who may be university employees or other persons the party selects; provided that not more than one of the advisors shall be an attorney.
2. No advisor, including an attorney who may be acting as an advisor, may speak on behalf of the party, make an opening or closing statement, present testimony or examine witnesses. The advisor's role is limited to assisting the party to prepare for the hearing and providing the party private advice during the hearing.
3. A Complainant or Respondent who plans to be accompanied by an attorney or other advisor at the hearing must notify the panel chairperson and the other party at least five business days before the hearing.
4. The special panel may request or the university may provide a University-furnished attorney or other advisor to be present at any hearing to advise the special panel.
5. The university may have an observer present at the hearing.

I. Decision After Hearing

1. After the hearing, the special panel will meet in closed session to review the hearing and make a decision on the formal complaint. In order to make a determination that sexual harassment occurred the decision must be supported by the preponderance of the evidence and approved by a majority of the special panel members.
2. The special panel's report of its decision must be in writing and set forth findings of fact, conclusions, and, where appropriate, recommendations for

corrective action, including sanctions, that are approved by a majority of the special panel members.

3. The special panel will submit the report of its decision to the Vice President for Human Resources within ten business days after the hearing ends. The Vice President for Human Resources shall send a copy of the special panel report to the Complainant and to the Respondent (at their home addresses of record, by courier, overnight mail or certified mail, return receipt requested) except for portions that the university is required by law to treat as confidential. The Vice President for Human Resources shall also send copies of the special panel report to the responsible university officials, including the vice president(s) responsible for oversight of the status group(s) to which the parties belong.
4. If the special panel concludes that sexual harassment occurred, the Vice President for Human Resources will forward a copy of the special panel report to the Responsible University Official or SRR. After reviewing the special panel report, the Responsible University Official or SRR will decide whether to impose corrective action, including sanctions, consistent with that official's authority. In cases involving suspension or expulsion of a student, the Senior Associate Provost and Dean of Student Affairs, in concurrence with the Provost and Executive Vice President for Academic Affairs, will impose sanctions. A responsible university official will notify the parties in writing of the disposition, and the basis for that disposition.
5. As a general practice, a decision on a formal complaint will be rendered within 45 days of when the Vice President for Human Resources receives it. However, certain cases may require additional time, depending on the circumstances involved, the complexity of the facts, the availability of witnesses, and other factors. In cases where a special panel is unable to complete its work within this period of time, and believes substantial additional time will be required, it will notify the affected party or parties and explain that further time is required.

J. Review of Special Panel Decision

1. A party dissatisfied with a special panel decision may submit a request for review to the Vice President for Human Resources, who will transmit the request to the vice president(s) responsible for oversight of the status groups to which the parties belong. For example, when the Complainant is a staff member and the Respondent a faculty member, the Vice President for Human Resources and the Provost and Executive Vice President for Academic Affairs will jointly review the matter; when Complainant and Respondent are both faculty members, the Provost and Executive Vice President for Academic Affairs will review the matter.

2. The request for review must be in writing and set forth reasons why the special panel decision should be modified or overturned. The request for review must be based on the hearing record and may not present new evidence or testimony.
3. The request for review must be submitted within 10 business days after the party's receipt of the special panel decision. If the request is not received by then, the special panel decision will be the final university decision on the formal complaint.
4. The Vice President(s) will strive to issue a final decision on the review, based on the hearing record, within 30 business days following submission of the request for review. The decision of the Vice President(s) shall be the final decision on the formal complaint within the university.
5. When a special panel decision that includes a finding of sexual harassment is final, or when the final decision on a review is issued, the Vice President for Human Resources will provide a copy of it to the Responsible University Official or SRR. Any corrective action, including sanctions, taken shall be within the discretion and consistent with the authority of that official. In cases involving suspension or expulsion of a student, the Senior Associate Provost and Dean of Student Affairs, in concurrence with the Provost and Executive Vice President for Academic Affairs, will impose sanctions. A range of relevant considerations should be taken into account in determining the extent of sanctions, such as the severity of the offense, the effect of the offense on the victim and on the university community, and the Respondent's record of past offenses, if any.
6. A responsible university official shall send a copy of the final decision to the parties (at their home address of record, by courier, overnight mail or certified mail, return receipt requested) except for portions that the university is required by law to treat as confidential.