

# RICE UNIVERSITY SEXUAL HARASSMENT POLICY AND PROCEDURES

## I. POLICY

### A. POLICY STATEMENT

It is the policy of Rice University to provide an environment that is free from sexual harassment because such conduct seriously undermines the atmosphere of trust and respect that is essential to a healthy work and academic environment. Sexual intimidation and harassment are incompatible with the maintenance of academic freedom on campus.

This policy applies to all members of the university community, who are encouraged to report promptly complaints about sexual harassment. Persons found to be in violation of this sexual harassment policy shall be subject to disciplinary action which may include, but is not limited to, written warning, demotion, transfer, suspension or dismissal.

### B. LEGAL AUTHORITY

Sexual harassment is a form of sex discrimination which is prohibited by Title VII of the Civil Rights Act of 1964, by Title IX of the Education Amendments of 1972, and by the Texas Commission on Human Rights Act. Rice University's Equal Opportunity/Affirmative Action Policy also prohibits sex discrimination.

### C. DEFINITION

Sexual harassment may involve the behavior of a person of either sex against a person of the opposite or same sex. Unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal or physical behavior of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's education or employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for educational or employment decisions affecting that individual; or
3. Such conduct is reasonably regarded as offensive and has the purpose or effect of substantially interfering with the educational or work opportunities of students, staff, faculty or colleagues, or creating an intimidating, hostile, or offensive educational or working environment. If it takes place in the teaching context, it must also be persistent, pervasive, and not germane to the subject matter. The educational setting is distinct from the work place in that educators have wide latitude to determine, in their professional judgment, the appropriate content and presentation of educational material.

### D. EXAMPLES OF PROHIBITED BEHAVIOR

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

1. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
2. Threats or insinuations that a person's employment, wages, academic grade, promotional opportunities, classroom or work assignments or other conditions of employment or educational life may be adversely affected by not submitting to sexual advances.
3. Unwelcome verbal or written expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene phone calls.
4. Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or study area, that may

offend individuals. Such material if used in an educational setting should be related to educational purposes.

5. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.

6. Consensual sexual relationships where such relationships lead to favoritism of a student or subordinate employee with whom the teacher or superior is sexually involved and where such favoritism adversely affects other students and/or employees.

### E. RESPONSIBILITY

Individuals who are aware of or have experienced an incident of sexual harassment should promptly report the matter to one of the officials designated to receive informal or formal complaints. These officials are listed in Section II. Procedures.

### F. NON-REPRISAL

No faculty, administrator or staff, applicant for employment, student, or member of the public may be subjected to reprisal or retaliation for action taken in good faith to seek advice concerning a sexual harassment matter, to file a sexual harassment complaint, or to serve as a witness or a panel member in the investigation of a sexual harassment complaint. The University will take appropriate and immediate action to respond to any retaliatory conduct.

### G. MALICIOUS, FALSE ACCUSATIONS

A complainant whose allegations are found to be both false and brought with malicious intent will be subject to disciplinary action, which may include, but is not limited to, written warning, demotion, transfer, suspension, or dismissal.

## II. PROCEDURES

An initial course of action for any person who feels that he or she is being sexually harassed is for that person to tell or otherwise inform the harasser that the conduct is unwelcome and must stop. However, in some circumstances this course of action may not be feasible, may be unsuccessful, or the individual may be uncomfortable dealing with the matter in this way. To encourage persons experiencing alleged sexual harassment to come forward, the University provides several channels of communication and both informal and formal complaint resolution procedures.

### A. INFORMATION, COUNSELING, AND INFORMAL RESOLUTION

Anyone may seek advice, information or counseling on matters related to sexual harassment without having to lodge a formal complaint. Persons who feel they are being harassed or are uncertain as to whether what they are experiencing is sexual harassment, are encouraged to talk with deans, department chairs, heads of administrative departments, the Director of Equal Employment Opportunity Programs, Director of Human Resources, the Assistant Director of Human Resources for Employee Relations, College Masters, the Assistant Dean-Student Judicial Programs, the Director of Multicultural Affairs, or the Director of International Services.

At this stage of the informal resolution process, the person seeking information and advice will be counseled as to the options for action available under this policy. To the extent possible, information disclosed through this advising process will be held in confidence, unless and until the initiating individual agrees that additional people must be informed in order to facilitate a solution. The aim of informal complaint resolution is not to determine whether there was intent to harass but to ensure that the alleged

offending behavior ceases and that the matter is resolved promptly at the lowest possible level. No disciplinary action is taken in resolving informal complaints.

## **B. FORMAL COMPLAINT RESOLUTION**

The filing of a written complaint is required for a matter to be formally investigated and a determination made as to whether this University policy prohibiting sexual harassment has been violated.

### **1. COMPLAINT AGAINST A STUDENT.**

Those wishing to bring a formal complaint of sexual harassment against a student should inform the Assistant Dean—Student Judicial Programs, who will either refer the case to the University Court, assume original jurisdiction, or refer the matter to a subcommittee of the Judicial Affairs Committee. The procedures for handling a sexual harassment complaint against a student are described in and governed by Rice's Code of Student Conduct. Anyone interested in these procedures should consult the Code of Student Conduct, which is available from the Assistant Dean—Student Judicial Programs or on the University's website.

### **2. COMPLAINTS AGAINST A FACULTY OR STAFF MEMBER.**

Formal complaints of sexual harassment against a member of the faculty or staff are filed with the Office of Equal Employment Opportunity Programs (EEOP). If the complaint is against the Director of EEOP, the complaint should be filed with the President, who will appoint a panel of inquiry as described below and take action on the panel's report as necessary.

#### **A. COMPLAINTS AGAINST A FACULTY MEMBER.**

In a matter involving a complaint against a faculty member, the Director of EEOP will a) receive a written statement of complaint from the complainant, b) inform the alleged offender (respondent) of the allegation and of the identity of the complainant, and c) initiate whatever steps he or she deems appropriate to effect a resolution of the complaint acceptable to both parties. The Director will present a written report to the respondent and the faculty member's Dean, the Provost, or the President, as appropriate. The report will include a discussion of the allegations, the investigatory process, the evidence in the case, the persuasiveness of the evidence, the consistency of the testimony, and the credibility of the witnesses. The President will determine whether to initiate proceedings under Policy No. 201-97, Section 8, to consider dismissal or a severe sanction against the accused faculty member. If the President decides on this course, the normal procedures outlined in the Faculty Council's "Procedure for Investigating Accusations Warranting Severe Sanctions, Including Dismissal, Against Faculty Members" will be followed.

#### **B. COMPLAINTS AGAINST A STAFF MEMBER.**

In a matter involving a complaint against a staff member, the Director of EEOP will conduct a full, impartial, and timely investigation. The Director of EEOP will provide the respondent with a written statement of the allegations, to which that individual will be required to respond in a timely manner. During the course of the investigation the Director of EEOP will hear the complainant, the respondent, and witnesses identified by each party. To the extent possible, complaints will be handled confidentially, with the facts made available only to those who have a compelling need to know for purposes of investigation or resolution of the matter.

At the conclusion of the Director of EEOP's investigation of a complaint against a staff member, the Director will present to the appropriate administrative official(s) a written report which will include a discussion of the allegations, the investigatory process, the evidence in the case, the persuasiveness of the evidence, the consistency of the testimony, and the credibility of the witnesses.

The administrative official(s) will determine whether the policy was violated, take necessary action, and inform the complainant and the respondent of the final disposition of the complaint.

In matters involving investigation of a complaint against a staff member, either the complainant or respondent may request that the Director of EEOP refer the matter to a panel of inquiry. This request must be made after the filing of the formal complaint and before the Director of EEOP begins his or her formal investigation.

#### **1) Panels of Inquiry for Complaints against Staff Members**

The panels of inquiry are selected by the President, with each panel comprising a chair and four members (two male and two female). The chair will normally be non-voting, but will cast the tie-breaking vote when necessary. Panel membership will depend on the status of the parties involved in the complaint as follows:

- When both parties are members of staff, the panel will be made up of members of staff.
- When the complainant is not a staff member, the panel will have a faculty member plus two members from the staff, and two members from the complainant's constituency, e.g. students or faculty members.
- When a complaint is brought by a third party, the panel will be made up of members of the staff.

The purpose of the panel of inquiry is to determine, to the best of its ability, the facts regarding the alleged sexual harassment. Prior to the hearing, the panel will meet to determine procedures for the conduct of the hearing in consultation with the parties involved. The panel will hear the complainant, the respondent, and witnesses identified by each party, and will examine all evidence it deems necessary. The rights of both parties will be observed and privacy and confidentiality will be protected to the extent possible.

At the conclusion of its investigation, the panel will issue a written report to the appropriate administrative official to whom the respondent reports. If the complainant is a student, the report will also be submitted to the Vice President for Student Affairs. If the complainant is a faculty member, the report will also be presented to the Provost. The panel's report will detail the allegations, the hearing process, the evidence in the case, the persuasiveness of the evidence, the consistency of the testimony, and the credibility of the witnesses. The administrative official receiving the report will determine whether there has been a violation of the University's policy prohibiting sexual harassment, and will take whatever disciplinary action is necessary and appropriate.