

JACKSONVILLE STATE UNIVERSITY
Manual of Policies and Procedures

POLICY NO: 1:02:05

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REVISION/REVIEW DATES: May 1997, October 2003, April 2004, November 2007, August 2012, September 2023

SUBJECT: Sexual Harassment

APPROVED: Dr. Don C. Killingsworth, Jr., President

PURPOSE

It is the established policy of Jacksonville State University to provide a work and study environment for faculty, staff and students that is free from all forms of sexual harassment, sexual intimidation, and exploitation. Jacksonville State University condemns such behavior and will review all claims of sexual harassment.

POLICY

This policy applies to all University employees at all times and departments and divisions within the University. This policy also applies, where possible, to those who do business at the University. Compliance with this policy is a term and condition of employment with the University. The terms “employee” or “employment” include, but are not limited to faculty, staff, administrators, agents, and contractors.

DEFINITIONS

The Equal Employment Opportunity Commission guidelines generally define sexual harassment, in part, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to the conduct is made a condition of employment or admission of an applicant;
- Submission to or rejection of the conduct is made the basis for a personnel action (e.g., performance appraisal, recommendation for retention, salary increases, promotion, tenure or grades);
- The conduct has the purpose or effect of unreasonably interfering with the

individual's work performance or of creating an intimidating, hostile, or offensive working or studying environment. Such behavior may violate federal law and/or give rise to personal liability for the results of such behavior.

To further generally define the prohibited behavior, sexual harassment may consist of explicit demands for sexual favors and may involve threats or punishment where sexual favors are denied or promises of employment benefits are made if sexual favors are granted. Sexual harassment may be subtle and may not involve threats of punishment or promises of benefits. Examples of conduct outside the generally accepted academic environment which may create a sexually offensive working environment include, but may not be limited to: (1) sexually offensive or oriented foul or derogatory language, jokes, kidding, hazing or taunting; (2) the display of sexual objects; (3) the circulation or display of publications such as calendars, cartoons or graffiti with sexually oriented content; (4) unwelcome touching; (5) unwelcome flirtations or requests for dates or after hours meetings; or (6) any other verbal, physical, hazing or visual conduct of a sexual nature that would create an uncomfortable or hostile environment. The various forms of sexual harassment may come from supervisors, administrators, co-workers, and even from outsiders such as vendors, service representatives or others.

PROCEDURES FOR INITIATING A COMPLAINT OF SEXUAL HARRASSMENT

The University cannot address sexual harassment unless it has been made aware of the harassment. If an employee feels that she or he has been subjected to sexual harassment, or has witnessed any form of sexual harassment, the employee may proceed with the complaint to his or her immediate supervisor **or** may address the complaint directly to the Office of Human Resources. The University strongly encourages the timely filing of any complaints of sexual harassment. EEOC guidelines generally suggest the filing of such claim within six (6) months of the alleged occurrence. Filing a contemporaneous complaint assists the University in conducting an investigation that is thorough and fair to all parties. An employee does not have to put his or her complaint of sexual harassment in writing to initiate an informal sexual

harassment investigation.

If the employee wishes to submit an informal complaint to a supervising employee, he or she may discuss the matter with the supervisor. The Office of Human Resources encourages resolution of sexual harassment complaints at the lowest administrative level. Some complaints may be resolved by a conversation, better communication, education and/or the supervisor's support of this policy and of a work environment free of sexual harassment. If a satisfactory conclusion is not reached at the level of the immediate supervisor, either party may pursue the matter to the next level of supervision, e.g., dean or director. At this stage, a formal written charge of sexual harassment signed by the charging party must be submitted by the employee. A copy of the formal charge will be tendered to the employee against whom the charge is made and the employee will be provided with an opportunity to respond. If a satisfactory conclusion is not reached at the dean or director level, either party may pursue the matter to the vice-president or head of his or her division. A final appeal may be made to the president and the decision of the president will be final.

If the employee **does not** wish to pursue an informal or formal sexual harassment complaint through the supervisor, the employee may pursue an informal or formal complaint or charge directly with a representative of Human Resources. The guidelines and procedures of due process outlined above will apply. If a satisfactory conclusion is not reached with the involvement of Human Resources, either party may pursue the complaint to the president. The decision of the president will be final.

SUPERVISOR RESPONSIBILITY

The University takes the position that there is no such thing as an "off the record" complaint of sexual harassment. The Office of Human Resources serves as a resource to supervisors/department heads. If the employee wishes to talk with Human Resources prior to initiating a complaint, Human Resources representatives will be available to assist. In all cases, Human Resources must be notified in writing of the resolution of all charges or complaints of sexual harassment. This written notice may

be in the form of a letter or memorandum. Further, a form has been provided for use by supervisors/department heads ([Form 55](#)). Such notice shall be retained in a central file separate from the personnel file of the employee against whom a charge is made.

While recognizing relevant Alabama Law and Federal Statutes regarding public institutions, the central file referenced herein shall remain confidential when practicable.

A copy of [Form 55](#), Sexual Harassment Complaint, may be found in the [University Policies and Procedures Manual](#) along with this policy. A supervisor failing to report a sexual harassment complaint to the Office of Human Resources will be subject to disciplinary penalties ranging from a reprimand up to and including termination.

Documentation of investigation of a sexual harassment complaint that does not result in a disciplinary action shall be maintained in Human Resources but shall not be kept in the individual's employee folder.

DUE PROCESS AND FAIRNESS

The guiding principles of this policy are compliance with all relevant laws, respect and fairness to all parties, and good judgment.

Nothing in this policy should be interpreted to impede generally accepted academic freedom, to inhibit appropriate feedback on an employee's performance, or to prevent the administration from acting in the best interest of the University where appropriate and relevant. This policy against sexual harassment shall be applied in a manner that recognizes principles of academic freedom and freedom of expression. As stated in the Faculty Handbook 2.8.10, "The University affirms and follows the idea that all members of the faculty are entitled to academic freedom." "Academic freedom in its teaching aspect is fundamental to the protection of the rights of faculty members in teaching and to students to freedom in learning." "The faculty member is entitled to freedom in the classroom in discussing his/her subject but should be careful not to introduce into his/her teaching controversial material that has no relation to his/her subject."

CONFIDENTIALITY

The University's administration is fully committed to creating a work environment free of sexual harassment. Thus, the University will investigate all complaints of sexual harassment, whether written or verbal. Therefore, while the University will consider requests for confidentiality, there can be no absolute guarantee of complete confidentiality. The administration, supervisors, and representatives of Human Resources will, wherever practicable, only discuss the matter with those closely involved, and if necessary, the University attorney and/or outside counsel. The University is also keenly aware of the need to protect the rights of the accused and will attempt to balance the process of investigating complaints with observation of those rights.

PENALTIES FOR COMMITTING SEXUAL HARRASSMENT

An employee found by the University to have committed sexual harassment will be subject to appropriate discipline ranging from a written reprimand to termination. Relevant and appropriate disciplinary guidelines and procedures will be followed. Disciplinary action will be reflected in the employee's record in the Office of Human Resources.

PENALTIES FOR FALSE REPORTING OF SEXUAL HARRASSMENT

An employee found to have falsified a complaint of sexual harassment or found to have provided false information regarding a complaint will be subject to discipline ranging from written reprimand to termination. Relevant and appropriate disciplinary guidelines and procedures will be followed. Disciplinary action will be reflected in the employee's record in the Office of Human Resources.

STUDENT COMPLAINTS

Students and student employees alleging sexual harassment by a faculty member, staff member or another student, and desiring to initiate a complaint regarding such conduct, should follow the policy set forth in the *Student Handbook*. Faculty alleging sexual

harassment by a student should report the concerns to his/her department head or immediate supervisor.

RETALIATIONS

The University will not tolerate retaliation of any form against an employee who files a legitimate or bona fide sexual harassment complaint or against witnesses involved in a sexual harassment investigation. If an employee feels that he or she is a victim of retaliation on the basis of a sexual harassment complaint, the employee should direct his/her concern to the Office of Human Resources.

RESPONSIBILITY

The Senior Vice President for Finance and Administration is responsible for this policy.

EVALUATION

The policy will be evaluated at least every five (5) years.