

3359-11-13 Sexual harassment policy.

(A) Statement of policy.

- (1) The university of Akron reaffirms its commitment to an academic, work, and study environment free of inappropriate and disrespectful conduct and communication in any form. All students, faculty, and staff shall be protected under the guidelines of this policy.
- (2) A copy of this policy shall be incorporated into all employee handbooks. It shall also be included in student orientation materials, including those distributed to students in professional schools. It shall also be published in scheduling materials each semester. Copies of this policy shall be available at appropriate university offices, including the office of the deans of each college, the university library, associate vice president for student affairs, the affirmative action office, the department of human resources, all other administrative offices, and other places specified by the executive director of human resources.
- (3) It shall be the policy of the university of Akron to prohibit any and all forms of sexual harassment. All students, faculty, and staff have a responsibility to assist in the enforcement of this policy, be aware of its contents, and to abide by its terms. All supervisory personnel shall insure that those who are under their supervision are aware of the policy, receive a copy of it, and shall from time to time reinforce the university's commitment to the policy. From time to time, the affirmative action office shall disseminate materials throughout the university concerning the effective prevention of sexual harassment.
- (4) By this policy, the university is providing notice that sexual harassment in any form will not be tolerated and that the procedures specified below shall be utilized to inform the university of incidents of harassment and to allow all students, faculty, and staff to prevent, report, and to eliminate sexual harassment from this campus.

(B) Definitions. Sexual harassment is a form of sex discrimination which violates state and federal laws respecting both employees and students. The definitions used in this policy shall be interpreted consistent with such laws.

- (1) It consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:
 - (a) Submission to that conduct or communication is made a term or

condition, either explicitly or implicitly, of obtaining or retaining employment, of obtaining an education, or of obtaining educational benefits or opportunities; or

- (b) Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, education, educational benefits or opportunities; or
 - (c) Such conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment, education, educational benefits or opportunities, or creating an intimidating, hostile or offensive employment or education environment. Any sexual harassment as defined herein is limited to conduct or communication by someone in authority, but also includes any sexual harassment as defined herein when perpetrated on any student or employee by any other student or employee.
- (2) Sexual harassment is sexual conduct that is "unwelcome." It may include, but is not limited to:
- (a) Uninvited verbal harassment or abuse such as sexual name calling, jokes, spreading sexual rumors, leers, or overly personal conversations of a sexual nature;
 - (b) Subtle pressure for sexual activity;
 - (c) Inappropriate patting, pinching or fondling, pulling at clothes, or intentional brushing against a student's or an employee's body;
 - (d) Demanding sexual favors accompanied by implied or overt threats concerning an individual's employment or educational status;
 - (e) Demanding sexual favors accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status;
 - (f) Any sexually motivated unwelcome touching, cornering, or blocking an individual's movement;
 - (g) Conditioning a student's grade or academic progress on submission to sexual activity;
 - (h) Hanging or displaying inappropriate and sexually explicit pictures, posters, or drawings in the workplace;

- (i) A pattern of conduct intended to discomfort or humiliate, or both, a reasonable person at whom the conduct was directed that includes one or more of the following: unnecessary touching or hugging, remarks of a sexual nature about a person's clothing or body, or remarks about sexual activity or speculations about previous sexual experience.
 - (3) The university recognizes that not every advance or consent of a sexual nature constitutes harassment. Whether a particular action or incident is a personal social relationship without a discriminatory effect requires a determination based on all the facts and surrounding circumstances. False accusations of sexual harassment can have a serious detrimental effect on innocent parties and all others who are concerned. This policy shall not be used to bring frivolous or malicious charges against fellow students, faculty members, or employees. Such charges may result in discipline against the offending individual pursuant to applicable university disciplinary procedures.
- (C) Retaliation. Under this policy, retaliation is defined as the undertaking of adverse action against students or employees for the exercise of rights under this policy; or for having brought forward a charge of discrimination or sexual harassment, testified, assisted, or participated in any manner in an investigation or hearing or other proceeding under this policy or pursuant to procedures provided by law. The exercise of such legally protected rights shall not reflect upon an individual's status or affect future employment, grades, or assignments when such exercise is pursuant to the terms set forth in this policy.
- (D) Responsibility.
- (1) All persons affiliated with the university have a responsibility to actively oversee and implement this policy. The affirmative action officer shall facilitate and administer this policy consistent with the terms set forth herein and consistent with the state and federal rules, regulations, and laws governing this institution.
 - (2) Any person who believes he or she has been the victim of sexual harassment by an employee, student, or visitor of the university, or any third person with knowledge or belief of such conduct, should report the alleged acts immediately to a university official listed in paragraph (e) of this rule.
 - (3) Employees and students should make clear through affirmative conduct and/or verbal statements to an alleged harasser that such conduct is unwelcome and uninvited and should cease immediately. However, the employee's or student's inability to do so does not, in itself, negate the validity of the offensiveness of the conduct alleged.

- (E) Investigating reporting and procedures.
- (1) Persons who believe they are the victim of sexual harassment have the right to file a complaint. Such complaints should be filed as quickly as possible, but not later than one hundred twenty days after the incident in question, utilizing either the informal or formal procedures outlined below.
 - (2) However, any sexual conduct defined as criminal conduct in accordance with Title XXIX of the Revised Code shall be handled by the formal procedures outlined herein. The university reserves the right to refer such complaints to the appropriate external agency, including the prosecutor, police, or other appropriate investigative agency.
 - (3) Informal procedures. Those desiring to file complaints are strongly encouraged to utilize the procedures outlined below:
 - (a) Any complainant who is an employee should contact his or her immediate supervisor, or if the supervisor is the alleged perpetrator or unavailable, the vice president or head of the administrative unit;
 - (b) Any complainant who is a student should contact immediately the dean of the student's college or the assistant vice president for student affairs;
 - (c) The complainant may also contact the affirmative action officer directly;
 - (d) Third persons referenced in paragraph (d)(2) of this rule should contact any of the above-listed officials;
 - (e) University personnel contacted about an incident or informal complaint of sexual harassment must report the incident/complaint to the affirmative action officer as soon as possible. The affirmative action officer shall be appraised of patterns of incidents or complaints as they may develop;
 - (f) The affirmative action officer and the university official listed above shall promptly investigate and then attempt to resolve the complaint in cooperation with the university representative originally contacted when appropriate.

- (4) Formal procedures.
 - (a) Should informal procedures not produce a resolution satisfactory to the complainant, the complainant has the right to file a formal written complaint with the affirmative action officer.
 - (b) Upon receiving a formal complaint, the affirmative action officer shall inform the alleged offender of the allegation and of the identity of the complainant. A written statement of the complaint shall be given to both parties. The affirmative action officer shall then conduct an investigation and fully inform the complainant and the accused of the results thereof.
- (F) Resolution of a complaint.
 - (1) There shall be an aggressive effort on the part of all parties involved to resolve informal or formal complaints promptly.
 - (2) Resolution of an informal complaint by the appropriate administrative person and/or the affirmative action officer shall occur within thirty calendar days of submission of complaint. For a formal complaint, the affirmative action officer shall report the results of his/her investigation and any recommendation within sixty calendar days.
 - (3) Any faculty or staff person accused of sexual harassment is entitled to due process as specified in the faculty or staff manual or applicable collective bargaining agreement. Any student accused of sexual harassment is entitled to due process in accordance with established university disciplinary procedures applicable to students.
 - (4) If the affirmative action officer, based on his or her findings, concludes that there is a substantial likelihood that sexual harassment has taken place, these findings shall be forwarded immediately to the accused's supervisor along with a recommendation for disciplinary action.
 - (5) Violators of this policy may incur a variety of sanctions which may include, but are not limited to, referral for counseling, written or oral reprimands, suspension with or without pay, termination, or referral to the criminal justice system.
 - (6) Nothing contained herein shall be deemed to restrict or otherwise prohibit the complainant from filing a complaint with an appropriate external governmental agency, nor shall this policy be deemed as discouraging

individuals from seeking legal counsel. It shall, however, be the responsibility of such individuals to meet any agency filing deadlines.

- (7) In the event allegations are not substantiated, reasonable steps shall be taken to ensure that the accused suffers no damage to his/her reputation which may have been caused by the proceedings. Any complainant found to be dishonest in making allegations or who has been found to have made them maliciously, shall be subject to university disciplinary action.
- (G) Confidentiality. All complaints of sexual harassment shall be considered confidential and only those persons necessary for the investigation and resolution of the complaints will be given information about them. The university will respect the confidentiality of the complainant and the individual against whom the complaint is filed as much as possible consistent with the university's legal obligations to protect the rights and security of its employees and students.

Effective: May 13, 1998

Certification: _____
Secretary
Board of Trustees

Prom. Under: 111.15

Rule Amp.: Ch. 3359