



# Sexual Harassment Policy

## I. Policy Statement

The University of Puget Sound prohibits discrimination in education or employment on the basis of sex (Equal Opportunity Statement). This Sexual Harassment Policy explicitly defines sexual harassment as a prohibited form of sex discrimination. This policy further prohibits sexual assault and other forms of nonconsensual sexual conduct. In addition, the university prohibits consensual sexual relationships between a faculty or staff member and a student whenever the faculty or staff member is in a position of professional responsibility with respect to the student.

This policy is intended to meet and may generally exceed the requirements of applicable federal and local law. However, this policy does not provide a substitute procedure for redressing any person's legal rights, nor is the university prevented from acting to remedy a problem which could also be remedied by resort to legal action.

## II. Policy Scope and Applications

### A. Policy Scope

This policy applies when the conduct prohibited by this policy occurs between any member of the student body, faculty, or staff and any other member of the student body, faculty, or staff. This policy also applies when the prohibited conduct occurs between a member and a nonmember of the student body, faculty, or staff, such as an off-campus vendor, independent contractor, work-study employer, internship supervisor, prospective student, or volunteer.

The university may impose sanctions if the prohibited conduct occurs on university premises or in connection with a person's participation in a university-sponsored organization, program, or activity, or if the conduct poses a risk of harm to any member of the campus community, including but not limited to any of the harmful effects encompassed by the definition of sexual harassment.

### B. Sexual Harassment

Sexual harassment as defined by this policy with reference to applicable equal opportunity law consists of unwelcome verbal or physical conduct of a sexual or nonsexual nature that is directed toward a person because of the person's sex, when:

1. submission to the conduct is made either explicitly or implicitly a term or condition of a person's employment or education, or the person's

- submission to or rejection of the conduct is used as a basis for a decision affecting the person's employment or education (quid pro quo harassment); or
2. the conduct has the purpose or effect of unreasonably interfering with a person's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment (hostile environment harassment).

For additional information relating to the application of this policy, see [Appendix A](#).

### **C. Sexual Assault**

Sexual assault as defined by this policy with reference to applicable criminal law consists of any actual, attempted, or threatened form of nonconsensual sexual intercourse or other sexual conduct of a forcible, threatening, or otherwise nonconsensual nature. Sexual conduct is of a nonconsensual nature if the complainant objected or manifestly attempted to object to the conduct, or if his or her capacity to consent was substantially impaired by reason of physical force, threat or intimidation, lack of opportunity to object, physical or mental disability, drug or alcohol consumption, or other voluntary or involuntary cause.

See [Appendix B](#) for additional information relating to the application of this policy.

### **D. Consensual Sexual Relationships**

A consensual sexual relationship between a faculty or staff member and a student does not necessarily involve sexual harassment. However, the university's educational responsibilities to its students are potentially compromised in all such cases by the likelihood or even the appearance of a conflict of interests. Consequently, this policy prohibits consensual sexual relationships between a faculty or staff member and a student whenever the faculty or staff member is in a position of professional responsibility with respect to the student. A faculty or staff member has a professional responsibility when he or she is currently in a position to make or influence a decision or to confer or withhold a benefit relating to the student's education or employment.

This policy does not prohibit a consensual sexual relationship between a faculty or staff member and a student in the absence of a current professional responsibility with respect to the student. Nor does this policy prohibit consensual relationships between a faculty or staff supervisor and a supervisee (unless the supervisee is a student). However, because all such relationships potentially involve a violation of equal opportunity law, it may be difficult in any internal proceeding to defend against a sexual harassment charge where the defense is based on the complainant's consent to the relationship.

## **III. Responsibilities**

## A. General

All members of the campus community have a responsibility to govern their own conduct in accordance with this policy. In addition, any person who knows about a sexual harassment problem is strongly encouraged to report it to a designated university official.

## B. Supervisory Responsibilities

Supervisors are particularly responsible for helping to prevent and eliminate sexual harassment in the areas they oversee. A supervisor who believes that sexual harassment is or may be occurring must report the problem to a designated official even if the problem is not within his or her area of responsibility. All faculty members likewise have a supervisory responsibility to report a sexual harassment problem. Requests for confidentiality will be respected if at all possible (see [Section IV.D](#)). Supervisors must also help to ensure that no retaliation occurs against persons who complain of sexual harassment or who cooperate with a sexual harassment investigation. Failure to comply with these supervisory responsibilities may subject the supervisor or faculty member to disciplinary action.

## C. Information and Education

This policy emphasizes the importance of information and education in preventing sexual harassment. A copy of this policy will be made available to all members of the faculty, staff, and student body. In addition, all faculty, staff, and students should be regularly encouraged to participate in educational programs concerning the prevention and reporting of sexual harassment problems. Participation in such programs will be expected of academic and administrative department heads. This policy authorizes the President to appoint such advisory groups as may be needed to assist in developing appropriate educational programs and informational materials.

# IV. Complaint Procedure

## A. General

Anyone who has reason to believe he or she has been sexually harassed or assaulted is strongly encouraged to use this complaint procedure. Complaints may be handled informally as described below or by means of the formal procedures as provided by the [Faculty Code](#), the [Staff Policies and Procedures Manual](#), or the [Student Integrity Code](#), depending on whether the person charged is a member of the faculty, staff, or student body, respectively.

## B. Retaliation and False Complaints

This policy prohibits threats, other forms of intimidation, or retaliation of any kind against a person who reports a sexual harassment problem or who cooperates with a sexual harassment investigation. Any such conduct will itself constitute a violation of this policy and may subject the offender to disciplinary

action.

An intentionally false complaint will also constitute a violation of this policy and may subject the offender to disciplinary action. A complaint is not falsely reported merely because the evidence does not suffice to support a formal charge.

## **C. Counseling and Support Resources**

### **1. Counseling Services**

The counseling staff of [Counseling, Health and Wellness Services](#) are available to provide confidential counseling to any student who has a problem or concern with respect to sexual harassment or assault. The counseling staff also provide confidential referral services for faculty and staff. The only role of the counseling staff with respect to any party to a sexual harassment complaint will be to provide confidential counseling and emotional support. A counseling staff member is not required to report a client's sexual harassment problem to the university without the client's consent.

### **2. Personal Support for Parties to Complaint**

The immediate parties to a sexual harassment complaint may each request the university to approve the designation of a person of his or her choice, such as a peer, colleague, faculty advisor, or supervisor, to provide emotional and other personal support at all times during the complaint process and after its resolution. This person may be present whenever the party is involved in any phase of an informal or formal procedure. However, he or she shall be under the same obligation as the university to maintain the confidentiality of the proceeding.

## **D. Initiation of Complaint Procedure**

A faculty, staff, or student complaint may be brought to any of the following designated officials: the Academic Vice President, Associate Academic Dean, the [Dean of Students](#), the [Associate Dean for Student Services/Title IX Compliance Officer](#), the Associate Dean for Student Development, or the [Director of Human Resources/Affirmative Action Officer](#).

Complaints may also be brought to the head of the complainant's academic or administrative department, to the department head of the person behaving objectionably, or to a sexual harassment complaint ombudsperson who shall be a tenured member of the faculty appointed by the President in consultation with the Chairs of the Professional Standards and Student Life Committees of the Faculty Senate.

The role of a department head or complaint ombudsperson will be to counsel the complainant about sources of further information and assistance. If

requested by the complainant, the department head or ombudsperson may assist with informal resolution efforts, or he or she may refer the complainant to one of the above designated officials. In any event, the department head or ombudsperson must promptly report the complaint to a designated official, even if the complainant wishes to proceed informally or decides not to pursue the matter.

Complaints will be treated confidentially to the extent permitted by this policy's reporting requirements and the university's need to investigate and resolve the reported problem. If at all possible, especially during the investigation of the complaint, the complainant's identity will not be disclosed without the complainant's consent. However, disciplinary action cannot be taken without informing the respondent of the complainant's identity, unless the charges could be effectively rebutted without knowing who made them. The university may need to initiate a disciplinary action, even if the complainant does not request it, because the university has an obligation to resolve any reported sexual harassment problem.

## **E. Informal Resolution Procedure**

### **1. General**

In many instances, a complainant may prefer to seek an informal resolution of a sexual harassment problem, especially if the purpose in bringing the complaint is simply to put a stop to the offending behavior. A variety of informal methods may empower the complainant to achieve an effective resolution of the problem without becoming involved in a potentially lengthier, more adversarial, and less confidential formal process. However, the use of an informal process is entirely voluntary. A complainant may instead request a formal resolution procedure or terminate an informal process once it is begun and then seek a formal resolution.

### **2. Informal Resolution Alternatives**

A range of alternatives as outlined below may be available to resolve a sexual harassment problem informally. A complainant should be informed as appropriate of possible informal ways to put a stop to the offending behavior on his or her own or with the assistance of other persons. However, a complainant who is uncomfortable using any informal process is not expected and should not be encouraged to pursue it.

(1) A variety of interpersonal techniques may assist a complainant in resolving a problem informally on his or her own. See [Appendix C](#) for examples of some of these informal methods. Alternatively, a complainant might request the university to designate a person of the complainant's choice to initiate a confidential discussion with the person whose conduct is objectionable, with or without disclosing the complainant's identity.

(2) Either of the immediate parties to the complaint may request

the designation of a mutually acceptable representative of the university to arrange and supervise an informal resolution conference. The representative's role would be to assist the parties to talk about the problem, either in person or by communicating through the representative, and to seek a mutually satisfactory resolution which shall be summarized in writing and signed by the parties and by the representative. Either party may at any time refuse to continue the informal process. The representative may also reject or terminate the informal process or reject any proposed resolution if the university determines that the process or resolution may be unfair to either party or contrary to law or university policy.

(3) There may be other informal processes that may help to resolve a sexual harassment problem. Even after a formal procedure is initiated, any party to the complaint may propose an informal resolution process at any time during the formal process. A proposed resolution should not be rejected solely because it is not specifically referenced by this policy, as long as the policy is applied fairly, impartially, and consistently with the best interests of the parties and the campus community in resolving a sexual harassment problem.

## **F. Formal Resolution Procedure**

### **1. Initiation of Formal Procedure**

A formal procedure may be initiated on the complainant's or the university's own behalf by any of the following designated officials: the Academic Vice President, Associate Academic Dean, the Dean of Students, the Associate Dean for Student Services/Title IX Compliance Officer, the Associate Dean for Student Development, or the Director of Human Resources/ Affirmative Action Officer.

The initiation of a formal procedure is timely if the complaint is brought within any applicable time limitation as provided by the relevant faculty, staff, or student procedures. A complaint is also presumptively timely if it is brought within 180 days of the alleged violation, and is presumptively untimely if it is not brought within this time, but the university will consider all facts and circumstances, including the longer time limits provided by applicable civil or criminal law. All persons are encouraged to bring a complaint to the attention of a designated official even if it is beyond 180 days. Any time limitation for initiating a formal procedure may be extended during an informal resolution process, provided that the initial complaint is reported to a designated official within any allowable time limit.

### **2. Complaint Investigation**

The official initiating a formal procedure will interview the complainant and make a written summary of the interview, including the specific nature and

effects of the conduct in question, the time and circumstances in which it occurred, and the names of other persons who may have relevant information. The complainant will have an opportunity to review and amend the statement. The investigating officer will also advise the complainant of the likely scope and nature of the complaint investigation and the procedures that will apply if formal charges are brought. In addition, the complainant will receive a copy of this policy and the appropriate faculty, staff, or student procedures.

The investigating officer will promptly notify the respondent of the nature and circumstances of the complaint. The officer will advise the respondent that the complaint is being investigated and that formal charges may result. The respondent will have an opportunity to meet with the investigating officer and will also receive a copy of this policy and the appropriate faculty, staff, or student procedures. In meeting with the respondent, the investigating officer will review the alleged grounds for the complaint and will make a written summary of the interview, including the specific facts and circumstances as related by the respondent and the names of other persons who may have relevant information. The respondent will have an opportunity to review and amend the statement.

The investigating officer will promptly conduct a thorough investigation, making a reasonable effort to consult known sources of relevant information. The parties to the complaint will be kept informed of the progress of the investigation. The determination as to whether charges will be brought as a result of the investigation will be made by the official as provided by the applicable faculty, staff, or student procedures. The official making this determination will consider all relevant information discovered as a result of the investigation.

If charges are brought, the respondent will be notified of the specific charges, the formal procedures that will apply, and the sanctions that could be imposed if a violation is found. The notice will specify a reasonable time for answering the charges and will schedule a date for a formal proceeding as soon as practicable after the time expires for the respondent to answer. The respondent may propose a different date for good cause by including the request in his or her answer. A violation may be found in default of the respondent's answer or appearance at the scheduled proceeding.

If no charges are brought, the respondent and the complainant will both be notified that the respondent will not be charged based on the known facts as disclosed by the investigation. At the respondent's request, the university will similarly notify any other persons who were involved in the investigation.

### 3. Formal Hearing Procedure

Any person formally charged with a violation of this policy will be afforded an opportunity for a fair and impartial hearing. The applicable procedure will be as provided under the [Faculty Code](#), [Staff Policies and Procedures Manual](#), or [Student Integrity Code](#), depending on whether the respondent is a member of the faculty, staff, or student body, respectively. Following are references to the applicable provisions of those documents:

a. Complaint Against a Faculty Member

A faculty member's violation of this policy constitutes a breach of his or her contract of employment with reference to the applicable substantive provisions of [Chapter I](#) of the Faculty Code. A complaint against a faculty member may be formally adjudicated pursuant to the grievance procedures of [Chapter VI](#) or the dismissal procedures of [Chapter V](#) of the Faculty Code.

Because the conduct prohibited by this policy and by applicable civil or criminal law is inconsistent with the university's purpose to provide a nondiscriminatory and safe working and learning environment, such conduct is neither condoned nor protected by the principles of academic freedom, and this policy, therefore, does not in any way alter or qualify the protections of academic freedom as provided by the [Faculty Code](#).

b. Complaint Against a Staff Member

A staff member's violation of this policy constitutes a violation of the conditions of his or her employment. A complaint against a staff member may be formally adjudicated pursuant to the corrective action policy of the [Staff Policies and Procedures Manual](#).

c. Complaint Against a Student

A violation of this policy by a student constitutes a violation of Standard 6 of the [Student Integrity Code](#) and may also violate one or more other substantive code provisions. A complaint against a student may be formally adjudicated pursuant to the procedural provisions of the student code.

d. Procedural Rules of General Applicability

For purposes of adjudicating a complaint alleging a violation of this policy, the above referenced formal procedures will be supplemented to the following extent:

(1) General. The applicable procedure will be conducted fairly, impartially, and with the purpose of discovering the truth. However, formal rules of procedure and evidence used in courts of law will not apply. Except as provided below, any evidence,

including hearsay evidence, may be considered if it will assist the applicable fact finder in discovering the truth and is not unduly prejudicial to any party.

(2) Burden of Proof. A finding of a violation of this policy requires proof that the allegations are more likely true than not true (preponderance of the evidence). A violation may be found based solely on the statements of the person by or on whose behalf the complaint is brought.

(3) Consent as Defense. Consent is not a defense if the complaint concerns a student with respect to whom a faculty or staff respondent was in a position of professional responsibility at the time of the alleged misconduct. Consent may be available as an affirmative defense in some, but not necessarily all, other circumstances. Where the defense is available, the respondent will bear the burden of proving that the alleged conduct was of a consensual nature or that he or she in good faith reasonably believed that the complainant consented to the conduct.

(4) Character Evidence. Evidence of a party's character is not admissible to prove conduct in conformity with that character on the occasion in question, except that either party may submit evidence of his or her good character. Evidence of the complainant's past sexual conduct is specifically inadmissible to prove consent on the occasion in question, unless the evidence concerns prior sexual conduct with the respondent. Prior conduct or other evidence of character is otherwise admissible for any relevant purpose and as fairness may require.

(5) Unavailable Witness. The parties to the proceeding may question any witness to the extent permitted by the applicable procedure. However, a witness who is unable or unwilling to appear may offer evidence by means of a signed statement which need not be notarized. An unavailable witness may be examined by means of written responses to questions posed by either of the parties or by the factfinder. If the factfinder cannot evaluate the evidence without requiring the presence of the witness, the offered evidence will be excluded if his or her presence cannot be obtained.

(6) Confidentiality. Formal proceedings will be closed to the public. The university will exert its best efforts to maintain the confidentiality of the proceeding and

to protect the privacy of the immediate parties to the complaint. However, the immediate parties will both be notified in writing of the factfinder's decision and the nature of any sanctions imposed.

#### 4. Sanctions

The applicable decisionmaker may impose any one or more sanctions as appropriate in the circumstances. In imposing sanctions, the decisionmaker will consider the nature, frequency, and severity of the offending conduct, the resulting harm to other persons or to the campus community, the respondent's past disciplinary record at the university, and the likelihood of future harm to other persons or to the campus community. Sanctions should be imposed to serve a corrective rather than merely punitive purpose.

##### a. Student Sanctions

Sanctions that may be imposed upon a student include but are not limited to:

1. official reprimand, including a warning of the possible consequences of further violations;
2. conduct probation, during which period of time the student may not participate in cocurricular activities;
3. permanent eviction from university housing;
4. conduct suspension, consisting of a temporary separation of the student from the university;
5. any one or more other corrective sanctions as appropriate, such as an apology to persons harmed, mandatory counseling, or participation in an appropriately designed educational program;
6. permanent expulsion from the university.

##### b. Faculty or Staff Sanctions

Sanctions that may be imposed upon a faculty or staff member include but are not limited to:

1. official reprimand, including a warning of the possible consequences of further violations;
2. restrictions on participation in campus activities or forfeiture of a benefit, honor, leadership position, or other privilege enjoyed by virtue of the person's membership of the faculty or staff;
3. transfer, demotion, or forfeiture of promotion or salary increase;
4. suspension or mandatory leave of absence;
5. any one or more other corrective sanctions as

- appropriate, such as an apology to persons harmed, mandatory counseling, or participation in an appropriately designed educational program;
6. termination of employment.

### **G. Records Retention and Disclosure**

The university will retain a confidential record of any sexual harassment complaint and its final disposition. The existence and contents of this record may not be publicly disclosed by the university without the written consent of the person about whom the information is sought, except as permitted by the Family Educational Rights and Privacy Act or as required by a valid court order. The complaint record may otherwise be used by the university for legitimate internal purposes relating exclusively to the enforcement of this policy.

### **V. Policy Approval and Amendments**

This Sexual Harassment Policy and any subsequent amendments shall be adopted by the Board of Trustees upon recommendation by the President. This policy as approved or amended shall supersede any prior policy statements concerning sexual harassment or other prohibited sexual conduct.

Origination Date: 1/1983

Revised: 2/6/98

Owner: President's Cabinet

Contact: Assistant to the President/Secretary of the Corporation

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[Top of Page](#)

[Sexual Harassment Policy Appendix A, B, & C](#)

[Campus-wide Policies Page](#)

[Policies Directory](#)

[Human Resources Home Page](#)

Human Resources

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