

TOWSON UNIVERSITY  
POLICY PROHIBITING SEXUAL HARASSMENT

**I. GENERAL**

A. Purpose:

Towson University is committed to complying with the University System of Maryland (the "System" or "USM") Policy on Sexual Harassment, BOR VI-1.20. This policy prohibits sexual harassment by any member of the University community. Sexual harassment may also violate criminal and/or civil laws of the State of Maryland and the United States.

The University's President has delegated authority to implement this policy to the Special Assistant to the President for Diversity and Equal Opportunity. Accordingly, the University establishes this policy to prohibit discrimination, to establish the responsibilities of the Fair Practices Officer (reporting directly to the Special Assistant to the President for Diversity and Equal Opportunity) in connection with this policy, to establish a complaint procedure to investigate allegations of discrimination, and to provide for appropriate discipline for persons who violate this policy.

B. Notification of Policy Requirements:

This policy is available on the web site of the Office of Diversity and Equal Opportunity at <http://www.towson.edu/aa>. It is in the Faculty Handbook, and is included among the University's personnel policies and the Policies and Procedures Guide. This policy is referenced in the Student Code of Conduct.

In the event an employee reports an alleged violation of this policy to a supervisor, department head, dean, chair, or any other administrator in the employee's direct line of supervision, that person shall promptly refer the employee to the Fair Practices Officer, and/or personally notify the Fair Practices Officer. The Fair Practices Officer shall then notify the complaining employee (the "Complainant") of the policy prohibiting discrimination and of the procedures for filing a complaint, or verify that the Complainant already has this information.

C. Prohibition Against Retaliation:

Retaliation against a Complainant or a person who provides information in support of a Complainant is prohibited. Any person who retaliates against a Complainant or a person who provides information in support of a Complainant shall be subject to disciplinary action as provided in this policy.

D. Other Applicable Policies:

In addition, see Towson University Policy Prohibiting Discrimination on the Basis of Race, Color, Religion, Age, National Origin, Sex and Disability and Towson University Policy Prohibiting Discrimination on the Basis of Sexual Orientation. These policies are available on

the web site of the Office of Diversity and Equal Opportunity at <http://www.towson.edu/aa>. They are in the Faculty Handbook, and are included among the University's personnel policies and the Policies and Procedures Guide. This policy is referenced in the Student Code of Conduct.

## **II. SCOPE**

### **A. General:**

This policy shall apply to the University community. The term "University community" is defined to mean University students, faculty and staff.

In determining whether alleged conduct constitutes sexual harassment, the University will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual behavior, the facts particular to the case, and context in which the alleged incidents occurred. In assessing whether a particular act constitutes sexual harassment prohibited under this policy, the standard shall be the perspective of a reasonable person within the University community. The rules of common sense and reason shall prevail.

The university is mindful of the principles of academic freedom and is committed to protecting the expressions of ideas, teaching methods, and course content in the academic setting. At the same time, faculty members may not engage in classroom behavior that is sexual harassment and violates this policy.

### **B. Definitions:**

For the purpose of this policy, the university adapts the sexual harassment definition promulgated by the Equal Employment Opportunity Commission (EEOC).

Unwelcome sexual advances, unwelcome requests for sexual favors, and other 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 employment by the university or an individual's participation in a university - sponsored program or activity; or
2. Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting the individual; or
3. Such conduct by an employee, by a student, or by a third party is sufficiently severe, persistent or pervasive to:
  - a. limit an individual's ability to participate in or benefit from an educational program or activity;
  - b. create a hostile or abusive educational environment; or
  - c. have the purpose or effect of unreasonably interfering with an individual's work performance, or of creating an intimidating, hostile, or offensive work environment at the university.

Sexual harassment is a form of illegal gender discrimination. Sexual harassment may occur between people of the same or different genders, as well as between people of the same or different sexual orientation. It may occur among peers. It is especially injurious in relationships characterized by inequality of power, where one party has authority over the other. Such relationships can be immediate or based upon future expectations, e.g. the need for future evaluations and references.

#### C. Examples:

Sexual harassment may take many forms. Sexual assault and requests for sexual favors that affect educational or employment decisions constitute sexual harassment. However, sexual harassment may also consist of unwanted physical contact, requests for sexual favors, visual displays of degrading sexual images, sexually suggestive conduct, or offensive remarks of a sexual nature.

Examples of conduct that may be harassment:

Verbal: Offensive conversation, remarks, slurs, commentaries or epithets of a sexual nature; sexual jokes; sexual comments about appearance, clothing, body; comments concerning sexual relations.

Nonverbal: Leering, looking someone up and down, making sexual gestures.

Visual: Displaying sexually oriented or offensive objects, pictures, cartoons, posters or electronic programs & email

Physical: Touching, impeding or blocking movement, any physical interference with normal work or movement, interference with tools or possessions, sexual assault or attempted sexual assault.

### **III. COMPLAINT PROCEDURES**

#### A. Generally:

Individuals subjected to an incident of sexual harassment should be aware that there are many ways to bring it to the attention of Towson University and, where proper, obtain redress or protection.

Classified and associate staff, and academic administrators may complain of sexually harassing behavior to their department chair, department director, supervisor, Human Resource's Employee/Employer Relations Manager, or the Fair Practices Officer. If the offending behavior affects a faculty member's rights respecting appointment, salary, promotions, or tenure, or other conditions of employment, then the faculty member has the option of filing a complaint with the appropriate Department Chair/Director or Dean and using the Faculty Grievance Procedure.

Prior to taking any action, the office receiving the complaint shall immediately notify the Office of Diversity and Equal Opportunity that a complaint has been filed. In accordance with state law, and police department policies and procedures, complaints against a sworn police officer will be handled as an internal police investigation. The police department will notify the Office of Diversity and Equal Opportunity of any such investigation and its outcome.

The Office of Diversity and Equal Opportunity offers both informal and formal procedures for resolving a complaint of sexual harassment to employees, students and faculty. A complaint against a student will typically be referred to the Office of Judicial Affairs. For purposes of this policy, "students" include full time and part time students and continuing education students who are currently enrolled at the University. Any faculty member who files a complaint of sexual harassment under the University's Grievance Policies and Procedures must also file a written statement with the Office of Diversity and Equal Opportunity.

Complaints reported to the Office of Diversity and Equal Opportunity shall be retained by the Fair Practices Officer in a confidential file, separate from any other personnel or student files. The confidential file should include the name of the Complainant, the name of the person alleged to have violated this policy (the "Respondent"), the nature of the complaint, incident date(s), witnesses and any other information relevant to the incident.

The University is committed to taking appropriate action against persons who violate this policy, but ultimately, it may not be able to satisfactorily investigate or resolve a particular complaint without the initiative and continuous cooperation of the person who feels injured.

#### B. Filing a Complaint:

Complaints alleging sexual harassment or retaliation in violation of this policy must be made within one hundred twenty (120) days following an alleged incident of sexual harassment or retaliation. The Fair Practices Officer may waive the 120-day period upon a showing of good cause. Upon receipt of the complaint, the Fair Practices Officer will arrange to speak with the Complainant to discuss whether to resolve the complaint informally or to proceed with formal complaint procedures.

1. **Informal Resolution.** The Complainant may elect informally to resolve a complaint. The purpose of an informal resolution is not to determine whether or not sexual harassment has occurred, but to eliminate the alleged sexual harassment by conference, conciliation and persuasion. In the event an informal resolution is reached, the Fair Practices Officer may, in his or her discretion, summarize the resolution in writing and file it, after it is signed by the Complainant, Respondent and Fair Practices Officer. The Fair Practices Officer will conclude the informal resolution with a brief written report. In the event either the Complainant or the Respondent requests a copy of any such written summary, a written request shall be made. Either the Complainant or the Fair Practices Officer may elect to proceed with a formal resolution of the complaint at any time before an informal resolution is reached. In the event the Complainant elects formal resolution, the election shall be made in writing, as provided in paragraph B.2. below

2. Formal Resolution. The Complainant should set forth in writing the facts or omissions giving rise to the alleged sexual harassment or retaliation including the date(s) the alleged conduct occurred, the name(s) of the person(s) alleged to have violated this policy, the name(s) of person(s) having knowledge of the alleged violation(s), and any supporting documentation. The Fair Practices Officer shall investigate the complaint; however, if the Fair Practices Officer is the subject of the complaint, then the University's attorney and/or the Office of the Attorney General ("Counsel") or the Special Assistant to the President for Diversity and Equal Opportunity shall investigate the complaint. The investigation will generally include discussions with the Respondent. During the investigation, the Fair Practices Officer shall be given access to any information that relates or pertains to the complaint. The Respondent shall cooperate during the investigation by being available during reasonable business hours to discuss the complaint and to make available the information requested by the Fair Practices Officer. No information shall be denied the Fair Practices Officer absent good cause. In the event the Fair Practices Officer is denied information or the Respondent refuses to cooperate during the investigation, the Fair Practices Officer shall seek the advice of Counsel regarding the denial or the refusal to cooperate. Counsel shall then review the matter and advise whether the information should be disclosed or whether the Respondent must cooperate. Refusal to provide the Fair Practices Officer the requested information or to cooperate following Counsel's opinion that the information should be disclosed or that Respondent's cooperation is necessary may constitute a violation of this policy. The Fair Practices Officer will conclude the investigation with a written report. In the event either the Complainant or the Respondent requests a copy of any such report, a written request shall be made.

The Fair Practices Officer shall, within 90 days following the date the Complainant elects to proceed formally, submit to the President proposed findings of fact and the conclusions addressing whether this policy has been violated. The Fair Practices Officer may submit the results of the investigation to Counsel for legal review before submitting his/her proposed findings and conclusions to the President. The President may accept, reject or modify the findings and conclusions of the Fair Practices Officer. The Complainant and the Respondent will be sent a formal letter of finding informing them of the findings and conclusions of the investigation.

3. Appeal of Formal Resolution. Following the formal letter of finding, as described in the paragraph above, either the Complainant or the Respondent may appeal the President's conclusion within ten working days. The appeal must be made to the president, it must be in writing, and it must be within ten working days from the date of the letter of finding. The President may hear the appeal directly in an informal meeting, or may request an independent hearing officer to hear the appeal and make a recommendation(s) to the President. The President shall consider the direct appeal or the hearing officer's recommendation and make a decision, which is final and binding.

#### C. Confidentiality:

The Complainant, the Respondent, witness or any other person involved in the investigation or resolution of a complaint may disclose information only to those persons necessary to the filing, investigation and disposition of the complaint under this policy. Failure to exercise care in the

disclosure of information is a violation of this policy and may result in disciplinary action as more particularly provided in this policy.

#### D. Good Faith Requirement:

Allegations of sexual harassment are serious, with potential for great harm if made without justification. Accordingly, it is a violation of this policy for an individual to file a complaint without justification or in bad faith. An individual found to have filed a complaint without justification or in bad faith has violated this policy and will be subject to disciplinary action.

#### E. Other Violations of the Policy:

The President may determine that an employee has violated this policy though no complaint has been filed. The President shall notify the employee of any such violation(s) in writing and the discipline, if any, to be imposed.

The Fair Practices Officer may, on his or her own motion, identify policies, practices or patterns of behavior which may reflect sexual harassment prohibited by this policy, or by the sexual harassment or sexual orientation policy, and call these to the attention of the appropriate officials of the unit involved and recommend appropriate action. The Fair Practices Officer shall endeavor by negotiation to eliminate the alleged sexual harassment. Where such efforts fail, the Fair Practices Officer may on his or her own motion report the matter to the President.

#### F. Forum:

Complainants under this policy shall be required, as a condition precedent, to choose from among the alternative campus administrative procedures available. A complaint which has been heard under one alternative campus procedure cannot subsequently be heard under a second procedure. In the case of a complaint heard under the non-exempt employee grievance procedure, this restriction shall apply only when the complaint has entered Step II of that procedure.

### **IV. DISCIPLINE**

Discipline, including termination, may be imposed for violating this policy. If the employee found to be in violation of this policy ("Violator") is a classified employee, whether exempt or non-exempt, any discipline shall be imposed in accordance with USM policies relating to the discipline of classified employees. If the Violator is an exempt regular employee any discipline shall be imposed in accordance with USM and University policies relating to regular exempt employees. If the Violator is a tenured or tenure-track faculty member, or a person with seven or more years of continuous service as a full time instructor or lecturer, any discipline shall be imposed pursuant to USM and University policies on Appointment, Rank and Tenure. If Violator is a student any discipline shall be imposed pursuant to the Student Code of Conduct. The seriousness of the offense and the Violator's past record will be considered when determining what sanction is appropriate.

Unless another relevant policy (as described above) specifies a different procedure, the University President shall impose the discipline, if any, by informing the Violator in writing of the discipline and the reasons supporting it.

## **V. ON GOING EDUCATION**

The Office of Diversity and Equal Opportunity is responsible for making available to the University community continued education in the area of sexual harassment prevention. It is strongly encouraged that all employees receive training in the prevention of sexual harassment, particularly employees with supervisory responsibilities.

## **VI. EXTERNAL FILING PROCEDURES**

The Fair Practices Officer shall ensure that each complainant is informed of his/her right to file the complaint with the appropriate state and federal agencies. A person wishing to file a formal complaint with an external agency may do so with one of the following agencies:

Equal Employment Opportunity Commission (EEOC)  
1801 L Street, M.W.  
Washington, D.C. 20507

Equal Employment Opportunity Commission (EEOC)  
10 Howard Street, Third Floor  
Baltimore, Maryland 21201

Maryland Commission on Human Relations  
20 East Franklin Street  
Baltimore, Maryland 21202

United States Department of Education  
Office for Civil Rights  
3535 Market Street, Room 6300  
Philadelphia, Pennsylvania 19104-3326

In the event the Complainant files an external complaint with a state or federal agency, he/she must contact that agency to determine the filing requirements and time limitations.

Approved: 12/11/2001