

PROPOSED CHANGES TO THE ORIGINAL SEXUAL HARASSMENT POLICY

Omit the following paragraphs under Section II. DEFINITION OF SEXUAL HARASSMENT

The prohibition against sexual harassment also includes amorous consensual relationships with students who are enrolled in a course being taught by the faculty member or whose work (including work as a teaching or research assistant) is being supervised by the faculty member.

Consenting romantic and sexual relationships between faculty members and their students outside the instructional context, while not expressly forbidden, are unwise. The respect and trust accorded a professor by a student, as well as the power exercised by the professor over a student, greatly diminishes the student's freedom of choice.

Such relationships between employee and supervisor are similarly unwise. Even if carried out totally outside of the work context, they create an impression among other employees that the employee involved in the relationship has unfair advantage over them.

Finally, any faculty member or supervisor who enters into a relationship with a student or subordinate must recognize that if a charge of sexual harassment is subsequently lodged, and that faculty member or superior claims mutual consent as a defense, then that faculty member or supervisor must bear the burden of proving the defense.

Add the following highlighted sentences under IV. GRIEVANCE PROCEDURES

B. General Operating Procedures

3. Any attempt to penalize or retaliate against an individual for initiating an inquiry or a complaint is prohibited and will be treated as a separate incident which calls for review by the Board. **This statement is not intended to interfere in the normal process of litigation that may ensue as the result of filing a frivolous complaint.**

D. Grievance Procedure in the Event of a Signed Complaint

The Board will prepare a written report describing the facts it has found and the conclusions it has drawn from these facts. The report shall include a summary of the evidence which was heard in closed session and which formed the basis of the Board's decision. In a separate section of the report, the Board may outline what actions it recommends that the Chancellor undertake. **The Board's recommendations shall be consistent with the law and existing University's procedures.** The report of the Board will be forwarded only when accepted by a simple majority of those participating members present.

SEXUAL HARASSMENT POLICY AND
GRIEVANCE PROCEDURE FOR COMPLAINTS OF SEXUAL HARASSMENT
EAST CAROLINA UNIVERSITY

I. SEXUAL HARASSMENT POLICY

East Carolina University is committed to providing and promoting an atmosphere in which employees realize their maximum potential in the workplace and students can engage fully in the learning process. Accordingly, sexual harassment by and of both employees and students of East Carolina University is prohibited.

II. DEFINITION OF SEXUAL HARASSMENT

Sexual Harassment is defined for the purposes herein as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic success or performance; or,
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or academic or grading decisions affecting such individual; or,
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance; or,
4. Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive working or learning environment.

III. EXAMPLES OF SEXUAL HARASSMENT

Sexual harassment may include but is not limited to:

1. any type of unwelcome physical contact of a sexual nature;
2. demands for sexual favors in return for job security or promotion, a high grade, or a favorable reference;
3. a pattern of sexually oriented kidding or abusive remarks.

IV. GRIEVANCE PROCEDURES

A. Sexual Harassment Grievance Board

The Chancellor will appoint a standing Sexual Harassment Grievance Board to receive complaints of sexual harassment. This Grievance Board may hear a complaint brought against any agent of the University (faculty, administrator, staff, student employee, etc).

In making appointments to the Board, the Chancellor will take into account recommendations from any member of the University community. The Chancellor's appointments will also be guided by consideration of continuity, experience, and sensitivity to the concerns of those most profoundly affected by sexual harassment.

The Sexual Harassment Grievance Board will be composed of seven members; two faculty, two staff, one administrator, and two students. One of these individuals shall have counseling experience. The EEO Officer will serve in an ex officio (non-voting) capacity and the University Attorney shall be available at the request of the Board for consultation on legal matters.

The first Board will be comprised of four members appointed to two-year terms and three members appointed to one-year terms. The normal term will be two years and the terms shall be staggered. The usual practice will be to limit the service of a Board member to no more than two consecutive two-year terms. Over a period of years, women and men should be equally represented on the Board.

The Chancellor will appoint one member of the Board to serve as a convener in order to centralize this responsibility and to facilitate administrative matters.

B. General Operating Procedures

The Board's treatment of complaints will be guided by the following principles, the intent of which is to protect the legitimate interests of all persons:

1. All records other than the complaint and the final report will be kept in confidence by the Board and will not be part of the record in any other University procedure which might ensue.

2. Any written records relevant to a signed complaint in the possession of the Board will be transferred to the Record Center at the conclusion of the investigation. There they shall be destroyed five years after initiation of the complaint if no litigation, claim, or other official action involving the records has been initiated. If such action has been initiated, the records will be destroyed after completion of the action and resolution of the issues.

3. Any attempt to penalize or retaliate against an individual for initiating an inquiry or a complaint is prohibited and will be treated as a separate incident which calls for review by the Board. This statement is not intended to interfere in the normal process of litigation that may ensue as the result of filing a frivolous complaint.

4. The Board will emphasize mediation and conciliation and will rely on discreet inquiry, persuasion, confidentiality, and trust in dealing with complaints that are brought for its consideration. When it cannot resolve a complaint to the satisfaction of those concerned, the Board will refer the matter in an advisory capacity with recommendations to the Chancellor. Full cooperation with the Grievance Board will be needed from all members of the University community.

5. An individual may bring a complaint to the Board up to two years after the date of the incident. The Board may discuss but may decide not to take formal action on a complaint about an incident of sexual harassment that happened more than two years previously, so long as it occurred any time while the complainant was a member of the ECU community. A former student may bring a complaint of sexual harassment up to one year after leaving the University if the date of filing this complaint is within two years of the incident giving rise to the complaint. An individual should recognize, however, that as time goes by an investigation becomes more difficult.

6. There may be times when a complainant will approach initially an individual who is not a member of the Board (e.g. a member of the Personnel Department or an administrator). If a complaint is signed by this individual, then such complaint shall be forwarded immediately to the Convener for Board action.

7. Complaints with overtones of violence or extreme intimidation will be referred to the EEO Officer for immediate consideration.

C. Procedure in the Event of an Unsigned or Anonymous Complaint

There will be times when individuals, for various reasons, wish to protect their own identities and yet initiate action against someone who has submitted them to unwanted sexual pressures. While this desire may be understandable, fairness requires that the complaining individual identify himself or herself in a signed, written complaint before any investigation can be made or any process is begun which might lead to the recommendation of sanctions.

Individual anonymous complaints will not result in any action by the Board. In the event that the Board observes a pattern of complaints against the same individual over a period of time, whether such complaints are anonymous or signed and fully investigated, it shall notify the EEO Officer and the individual involved. There are two types of circumstances in which these conflicting considerations can be mediated: when students wish to postpone, rather than to refuse altogether such identification; and when the person, though unidentified, wishes only to obtain the Board's assistance in informing the other person that a problem has been raised concerning that person's conduct.

D. Grievance Procedure In the Event of a Signed Complaint

An individual may bring questions about procedure or present a complaint to any member of the Board, either orally or in writing. If this person does not express a preference to speak with a specific Board member, the convener will assign this role to one of the Board members in such a way as to share the responsibility as uniformly as possible.

Upon receipt of a written signed complaint, the Board member who is first seen will initiate a request for a Board meeting. The Board shall meet within five working days of receipt of the complaint if possible.

This Board member who is first contacted will also prepare an account of the complaint for review of the Board. In this initial account there will be no identification of the individual bringing the complaint or of the individual accused of sexual harassment. With at least four members present the Board will review the account of the complaint prepared by this Board member to decide if it falls within its purview. If, in the Board's judgment, it does not fall therein, the Board member who was initially contacted will so inform the individual bringing the complaint. This individual shall be informed of any other course which would be available to him or her with respect to the complaint. Also, the Chancellor shall be informed of the complaint in order to initiate any other action which might be indicated.

If the Board decides that the complaint is within its purview, then the complete written complaint, including identifying data, will be shared with the members. At that time Board members with identified conflicts of interest will be excused from hearing this complaint.

The Board will then begin an investigation. The Convener will appoint individual Board members to conduct the investigation and bring information back to the full Board. If the alleged harasser is a faculty member then one of the Board members conducting the investigation shall be a faculty member or administrator; similarly, if the alleged harasser is a student then one of the Board members shall be a student and if the alleged harasser is a staff member, then one of the Board members conducting the investigation shall be a staff member.

Two members of the Board together will talk to the persons directly involved in the complaint (both complainant and alleged harasser) in order to clarify what is believed to have happened and to obtain facts and views. In discussion with the accused individual, he or she shall be informed of the name of the individual making the complaint as well as the substance of the complaint.

During these discussions both the individual who is accused and the complainant may be accompanied by a "support person". This person's role is to provide morale support and reassurance to the party. However, this person is not to take any role or make comments during the discussions. A complainant or alleged harasser may choose any individual from the University community to fulfill this role with the exception of an individual who has legal training. While the investigation is underway, one member of the Board shall maintain contact with the complainant and another shall do so with the person against whom the complaint is lodged. The individuals will be informed of procedural progress but not of specific deliberations of the Board.

The Board will limit its investigation to what may be necessary to resolve the complaint or to make a recommendation to the Chancellor. The investigation shall be concluded within 30 calendar days from the time it is brought to the Board. If extraordinary circumstances make additional time for investigation necessary, this fact shall be conveyed clearly to all parties in the investigation.

The Board, having thus conducted its review will consider the grievance in private without the presence of either the complainant or the person complained against.

The Board will prepare a written report describing the facts it has found and the conclusions it has drawn from these facts. The report shall include a summary of the evidence which was heard in closed session and which formed the basis of the Board's decision. In a separate section of the report, the Board may outline what actions it recommends that the Chancellor undertake. The Board's recommendations shall be consistent with the law and existing University's procedures. The report of the Board will be forwarded only when accepted by a simple majority of those participating members present.

The Board will submit its report to the Chancellor within five days of its decision if possible.

The Chancellor shall accept the Board's findings unless these findings are not substantiated by the information presented to the Board. He or she may reconvene the Board to clarify any areas regarding findings. If the Chancellor does not agree with the recommendations of the Board, he or she will discuss the matter with the Board and explain the reasons for this disagreement.

The Chancellor's decision should ordinarily be made within two weeks following submission of the Board's report. If additional time is required because of the complexity of the case or unavailability of persons relevant to the Board's review, any of the time periods specified herein may be extended by the Chancellor.

The Chancellor will convey his or her decision in writing to the complainant, the person named in the complaint, and the Board. The Chancellor will permit the complainant and the person against whom the complaint was filed to review the Board's findings, conclusions, and summary of testimony in the report. Either individual may indicate in writing to the Chancellor what clarifications he or she believes are appropriate. Since the report is a confidential document advisory to the Chancellor, neither the person making the complaint nor the person named in the complaint is entitled to a copy of it.

V. RESPONSIBILITY FOR IMPLEMENTATION OF POLICY

The EEO Officer is responsible for the dissemination, implementation, and coordination of this policy.

Each Vice Chancellor, Dean, Director, Chairperson, and administrative official is responsible for cooperating in the dissemination and implementation of this policy.

Each faculty and staff member of the University has the responsibility of assisting when needed in implementing the sexual harassment policy.

The Sexual Harassment Grievance Board will be available to consult with ECU community on the issue of sexual harassment and is responsible for assisting in development of training programs to help the University community learn about issues related to sexual harassment and prevent its occurrence.

The Board will present to the Chancellor an annual written report summarizing the number and nature of cases dealt with by the Board and the issues or concerns which have arisen during the preceding year.