

UNIVERSITY RULE

34.01.99.M1

Sexual Harassment

Approved October 13, 1998

Revised January 5, 1999

Supplements [System Policy 34.01](#)

1. GENERAL

The employment and educational environment throughout Texas A&M University shall be free from all forms of sexual discrimination and sexual harassment. Conduct constituting sexual harassment is specifically prohibited by federal law, state law, and Texas A&M University policy and will result in appropriate sanctions. Definition of sexual harassment is contained in [System Policy 34.01 Sexual Harassment](#). Responsibility for implementation of this rule is defined in section 3 of System Policy.

2. COMPLAINTS

Sexual harassment complaints should be filed in accordance with the procedures outlined in Section 5 of this rule.

3. INFORMATION AND CONSULTATION

3.1 **Sexual Harassment Resource Persons**: The Department of Student Life, Human Resources Department Employee Relations Office, and the Office of the Dean of Faculties and Associate Provost are available to serve as a resource to any student, non-faculty employee, or faculty member who has a sexual harassment inquiry or complaint. Individuals with a sexual harassment inquiry or complaint may request a consultation with someone of a preferred gender in the appropriate office. These offices have information about University rules and procedures, System policy, applicable laws, options available for complaint resolution, and confidentiality requirements.

4. FILING OPTIONS AND PROCEDURES

4.1 The Texas A&M University procedures concerning sexual harassment provide informal and formal methods for resolving complaints. Complaints are filed with the appropriate supervisor, supervisor's superior, Department of Student Life, Human Resources Department Employee Relations Office, or the Office of the Dean of Faculties and Associate Provost. The personnel classification of the alleged offender determines which office to contact (see Section 5.2 Informal Filing Procedures and Section 5.3 Formal Filing Procedures).

4.1.1 Official Contact of the University if the alleged offender is a:

Student - Director of Student Life

Note: In cases of alleged sexual assault involving students: The complainant and the alleged offender are entitled to the same opportunities to have others present during a campus disciplinary proceeding. Both the complainant and the alleged offender shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

Non-Faculty Employee - Human Resources Department Employee Relations Office

Faculty - Office of the Dean of Faculties and Associate Provost

Unrelated Third Party - (people outside the University) - Human Resources Department Employee Relations Office

4.2 Confidentiality: Persons gathering general information, seeking guidance, or filing a complaint may be concerned about the confidentiality of the information they are sharing. While the University wishes to create an environment in which individuals feel free to discuss concerns and make complaints, the University may be legally obligated to take action when its officials are informed that sexual harassment may be occurring.

4.2.1 If the individual does not disclose identifying information about themselves or parties involved, as outlined in paragraph 5.1 (e.g. names, department or unit), during the inquiry or complaint, no action can be taken on the matter.

4.2.2 Once an individual discloses identifying information to an official of the University, that person will be considered to have filed a complaint with the University. An official of the University is any employee with supervisory responsibilities or higher.

4.2.3 The confidentiality of the information received will be protected as far as legally possible. The expressed wishes of the complainant regarding confidentiality will be considered in the context of the University's legal obligation to act upon the charge and the right of the *alleged offender* to be informed. To the extent possible, the proceedings will be conducted in a manner that protects the confidentiality of all parties involved.

4.3 Protection from Retaliation: The University will take reasonable action to assure that the complainant, the alleged offender, and those testifying on behalf of either part or supporting either party in other ways, are protected from retaliation. Persons who

retaliate will be subject to disciplinary action up to and including termination. This action can be taken at any time during or following an investigation of a sexual harassment complaint.

- 4.4 Protection of the Alleged Offender: When a complaint of sexual harassment is filed, the alleged offender will be informed of the allegations, the identity of the complainant, and the facts surrounding the allegations. In the event the allegations are not substantiated, reasonable steps will be taken to restore the reputation of the alleged offender if damaged by the proceedings. A complainant who intentionally makes dishonest or malicious allegations will be subject to University discipline up to and including termination.
- 4.5 Investigative Procedures: The Investigating Authority, defined below, is responsible for all administrative activities required to conduct the investigation, under informal or formal complaint procedures. These include, but are not limited to, informing parties necessary to the investigation, contacting supervisors regarding subordinate's time away from work to participate in the investigative process, making reports to University officials, and other responsibilities necessary to properly conduct the investigation.
- 4.5.1 Formal Report: An Investigating Authority, defined below, will prepare a formal report detailing all information from the initial notification through final resolution of the complaint. A copy will be kept by the appropriate Official Contact of the University and a copy sent to the Human Resources Department Employee Relations Office. If the allegations of harassment are found to be true, a copy of the formal report will be placed in the alleged offender's personnel file.
- 4.6 Notification: After the investigation, parties to the complaint will be promptly informed of the results of the proceedings.

5. PROCESSING COMPLAINTS

- 5.1 Filing a Complaint: Informal or formal notification to an official of the University constitutes official notification. Names, departments, and other information necessary to conduct an investigation of the allegation(s) are required. Further action by the complainant will determine whether the filing is formal or informal.
- 5.2 Informal Filing Procedures: Informal procedures are aimed at *stopping the harassing behavior* rather than determining culpability or intent. It provides a rapid method for stopping sexual harassment. Complaints that are resolved informally are generally not investigated to the same degree as formal proceedings. The use of informal procedures does not mean that the institution takes sexual harassment lightly.

- 5.2.1 An informal complaint should be filed with the lowest level supervisor capable of addressing it. That supervisor becomes the Investigating Authority unless replaced by a higher ranking authority. The supervisor and the complainant should formulate a plan of action to resolve the complaint in a timely manner. This should include, as appropriate, investigation, counseling, and discipline options within the scope of their authority.
 - 5.2.2 If the complainant or supervisor feels the harassing behavior is continuing, either may file a complaint with higher level supervisors until the complaint is resolved.
 - 5.2.3 At anytime, any party to the proceedings may file a formal complaint with the appropriate Official Contact of the University.
 - 5.2.4 In some instances the alleged offender may agree, voluntarily, to sanctions beyond the scope of supervisory authority to avoid a formal hearing. Otherwise, disciplinary action beyond the scope of supervisory authority for employees or students cannot be invoked without a formal hearing initiated by filing a formal complaint.
 - 5.2.5 Mediation may be utilized as a method for resolving informal complaints.
 - 5.2.6 If a complainant decides to handle the situation personally, and the harassment stops, then the supervisor's involvement and the investigation will end.
 - 5.2.7 Under informal procedures, the complainant is not required to make a written complaint for the processing of the complaint to proceed. The outcome of informal procedures include the full range of disciplinary options ranging from no action up to termination.
- 5.3 Formal Filing Procedures: Formal sexual harassment grievance procedures are designed *to stop the harassing behavior when informal procedures are inappropriate or fail*. The formal procedure will determine if sexual harassment has occurred, the culpability of the alleged offender, and the appropriate remedies or sanctions. Formal procedures are initiated with a written request for investigation of sexual harassment charges. This request may be made by the complainant, the institution, or any of the parties involved. The request must be sent or delivered to the Official Contact of the University listed below:
- 5.3.1 Students: A formal complaint against a student shall be directed to the Director of Student Life, who will appoint an Investigating Authority. The case will be investigated and a determination will be made within 12 working days as to whether or not further investigation or a hearing is warranted. A representative of

Student Life shall notify the alleged offender and the complainant regarding the solution of the complaint, including any sanctions.

5.3.1.1 Student Employees are considered students for the purpose of these procedures. If the incidence of sexual harassment is job-related, the Director of Student Life shall notify the alleged offender and the complainant regarding resolution of the complaint, including any sanctions.

5.3.1.2 Graduate Assistants- Teaching and persons holding a post-doctoral appointment will be considered faculty for the purpose of these procedures.

5.3.1.3 Graduate Assistants- Non-Teaching and persons holding post-doctoral non-teaching appointments are considered non-faculty employees for the purpose of these procedures.

5.3.2 Non-faculty employee: A formal complaint filed against a non-faculty employee shall be directed to the Human Resources Department Employee Relations Office, which will appoint an Investigating Authority. The Investigating Authority will investigate the case and determine, within 12 working days, whether to recommend sanctions at that time, to dismiss the case or to investigate the complaint further. Once a decision for further investigation is made, it normally should be completed within 30 working days. The determinations of the Investigating Authority, together with the recommended sanctions, if any, will be reported through the Director of Human Resources, or designee, to the appropriate vice president or other direct report to the University President. Decisions by the vice president or direct report regarding investigation and resolution of the complaint, including recommended sanctions, are considered final and shall be reported to the alleged offender, the complainant, the Director of Human Resources, or designee.

5.3.3 Faculty: A formal complaint filed against a faculty member shall be directed to the Office of the Dean of Faculties and Associate Provost. This office will notify the appropriate college dean and department head, or their designees, who will notify the faculty member concerned and appoint an Investigating Authority. The Investigating Authority will investigate the case and determine, within 12 working days, whether to recommend sanctions at that time, to dismiss the case, or to investigate the complaint further. Once a decision for further investigation is made, normally, a further investigation should be completed within 30 days. The findings of the Investigation Authority, together with recommendations for sanctions, if any, will be

reported to the Dean of Faculties and Associate Provost, who will review the findings and transmit the Investigating Authority's recommendations, together with any independent recommendations, to the Provost and Executive Vice President for Academics. The Provost and Executive Vice President for Academics will make the final determination. The Dean of Faculties and Associate Provost will report the determination to the complainant and the alleged offender.

6. INVESTIGATION

- 6.1 An Investigating Authority, composed of one or two people, will conduct the investigation. The Investigating Authority will reach a conclusion based on the investigation: the complaint either occurred, it did not occur, or there is insufficient evidence to make a determination.
- 6.2 Reasonable extensions of an investigation can be made for extenuating circumstances due to continuing a complex investigation, illness, scheduled vacations, professional presentations, etc. These extensions are granted by the office of the appropriate Official Contact of the University.

7. REMEDIAL ACTION

Action or sanctions to stop the harassment will not be made at the expense of the victim. Solutions or remedies will be through actions directed to the harasser.

8. APPEALS

The normal appeals process will be followed as outlined below. Decisions made during the appeals process may not impose a harsher penalty than the original decision.

Procedures of the University Disciplinary Appeals Panel

- 8.1 Students: Appeals of sanctions against students shall be directed to the University Disciplinary Panel. Procedures of the University Disciplinary Appeals Panel are printed in the Texas A&M University Student Rules handbook.
 - 8.1.1 Graduate Assistants- Teaching and persons holding post-doctoral teaching appointments are considered faculty for the purpose of these procedures. Appeal of sanctions may be made to the University Grievance Committee.
 - 8.1.2 Graduate Assistants- Non-Teaching and those holding post-doctoral non-teaching appointments are considered non-faculty employees for the purpose of these procedures.

- 8.2 Non-Faculty Employees: Appeals of sanctions against a non-faculty employee should be handled in accordance with procedures.
- 8.3 Faculty: If a recommendation for sanctions is made against a faculty member, the faculty member may appeal to the University Grievance Committee or the Tenure Mediation Committee and the Committee on Academic Freedom, Responsibility, and Tenure, as provided in [University Rule 12.01.99.M2 Academic Freedom, Responsibility, Tenure, and Promotion](#).

9. FOLLOW UP

The Investigating Authority will follow up with the complainant in those instances where their informal or formal complaint was proven in order to verify that the harassing behavior remains stopped. This will take place on or about the anniversary date of the final decision at 30 days, six months, and one-year time frames.

OFFICES OF RESPONSIBILITY:

[Department of Student Life \(Students\)](#)

[Human Resources Department Employee Relations Office \(Non-Faculty Employees\)](#)

[Dean of Faculties and Associate Provost \(Faculty\)](#)