

**SEXUAL HARASSMENT POLICY**

REVISED 1/01/07

Schreiner University strives to provide a working and educational environment for faculty, administration, staff and students that is free from sexual harassment. Sexual harassment in any form is unacceptable behavior and will not be tolerated. It is a form of misconduct that undermines the institutional mission. Retaliation against a person who files a sexual harassment complaint or participates in any capacity in a proceeding relating to a sexual harassment complaint is also strictly prohibited.

All members of the University community are responsible for ensuring that their conduct does not sexually harass any other member of the University community. This same responsibility extends to employees of third parties doing business with the University or on University premises and to campus visitors. The University will take appropriate action if these outside parties fail to do so.

**Definition of Sexual Harassment**

- A. Sexual harassment may be defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct, or written communications 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 educational experience;
  2. Submission to or rejection of such conduct is used as the basis for employment or academic decisions affecting an individual;
  3. Such conduct has the purpose or effect of interfering with an individual's work, academic performance, or participation in extracurricular activities, or of creating an intimidating, hostile, or offensive working or learning environment.
- B. Conduct (subject to 1, 2, and 3 above), which may constitute sexual harassment, includes any speech or conduct of a sexual nature that is unwanted and unwelcome. Examples include, but are not limited to:
1. Unwelcome physical touching, such as patting, hugging, or brushing against a person's body;
  2. Direct or implied threats that submission to sexual advances may favorably affect employment, work status, promotion, grades, or letters of recommendation; or that rejection of sexual advances may negatively affect any of these;
  3. Proposals of sexual activity;
  4. Subtle pressure for sexual activity, such as sexual comments or jokes, remarks or questions about sexual activity, speculation about previous sexual experiences, or unwelcome remarks about a person's body or clothes; or
  5. Conduct such as sexual gestures, leering, staring, or suggestive facial expressions that tend to bring discomfort to or humiliate an individual.
- C. This sexual harassment policy is not, however, intended to inhibit the free exchange of ideas in an appropriate academic setting. By its very nature, the educational process may involve the instructional use of reading materials, audio and visual media, lectures, and discussions containing sexually oriented language, images, and ideas that might be considered offensive in the ordinary workplace. Such use will not be considered sexual harassment, provided that:
1. The use occurs in an appropriate academic setting;
  2. The use is reasonably related to the course content;
  3. The use services a legitimate educational purpose designed to foster intellectual growth;

4. The use is not for the principal purpose of shocking or offending (many entirely appropriate materials may shock or offend);
  5. The manner of use does not unreasonably invade the personal dignity of the individual (e.g., requiring intimate touching);
  6. And the presenter does not selectively demean or embarrass students, based on gender, with prurient material.
- D. Consistent with its goal to establish educational and work environments, which emphasize individual responsibility, the University, prescribes no formal guidelines governing romantic relationships among members of the academic community. However, each person is expected to consider carefully the many important social, ethical and professional constraints that govern whether particular relationships are appropriate. Romantic relationships between faculty and students, and superiors and subordinates are almost always inappropriate and are therefore highly discouraged.

### Reporting Process

Any person in the academic community may initiate a complaint of sexual harassment. Students, staff and faculty should feel free to make complaints to proper University officials concerning allegations of sexual harassment.

#### A. General

1. All reports or complaints of sexual harassment should be reported as soon as possible after the event occurs.
2. Complaints will be responded to promptly. Failure to process a complaint is a violation of this policy.
3. The University will attempt to keep identities of parties and witnesses confidential to the extent permitted by a thorough and fair investigation of the facts.
4. A good faith complaint or report of sexual harassment will not affect the individual's current status as a student, faculty member, administrator, or staff member, nor will it affect future employment, compensation, work assignment, or evaluation of the individual.
5. Retaliation against a person filing a complaint or testifying as a witness is strictly prohibited.
6. The person accused of sexual harassment is considered innocent until such time as the charges are substantiated by the investigation.
7. Knowingly and intentionally filing a false complaint of sexual harassment is a violation of this policy, which will subject the complainant to discipline as outlined in the investigation process.
8. As agents of the University, it is the responsibility of all University employees to document any and all complaints of sexual harassment and send this documentation to any member of the Sexual Harassment Committee.

#### B. Complainant's Resolution of Offensive Conduct

Many complaints of sexual harassment can be resolved informally. This is particularly true when the offensive conduct results from simple insensitivity or misunderstanding of the complainant's perception of the conduct. **Any person confronted with offensive conduct should, if comfortable, immediately inform the individual(s) that the conduct is unwelcome and that it should stop immediately.** This may be accomplished verbally or in writing. Additionally the employee may:

- Walk away from the situation and inform the individual, an appropriate member of management or the Director of Human Resources that the conduct was inappropriate.
- Contact an appropriate member of management or the Director of Human Resources.

C. Pursuit of Complaint

If a warning does not end the offensive conduct or the complainant is not comfortable providing a warning, a complaint should be pursued to an authorized agent of the University.

Discussion at this level may lead to resolution of the matter without further procedures. The parties involved will be met with separately and, if feasible, together in a final attempt to seek resolution. If such an attempt is successful and both parties are satisfied, then the complaint will be resolved.

**Written Complaint**

- A. If the mediation is unsuccessful, the complainant may choose to file a written complaint. Any agent of the University receiving a written complaint must send a report of the complaint to the Mediator of the Sexual Harassment Committee. (It should be noted that no matter who the complainant contacts, the Mediator for the Sexual Harassment Committee will be notified of all complaints and will either conduct the mediation or appoint a mediator to conduct the mediation. If the Mediator is a part of this complaint, then someone else will be named to appoint a mediator or to conduct the mediation.) The Mediator will act as a trained liaison for the University.
- B. The documentation for the written complaint will include the complainant's signature on the Notice of Harassment/Discrimination Complaint Form. This form is necessary to obtain the information to carry forth the investigation. The Mediator will solicit information in this documentation to identify the following:
1. The identities of the accused and any witnesses.
  2. The date, time, and place the incident of harassment is alleged to have occurred;
  3. The specific behavior of the accused party, which the complainant found offensive;
  4. The effect the behavior had on the complainant, i.e., whether the behavior has affected the individual's ability to function in the academic environment.
  5. Whether the complainant has asked the person accused to stop the behavior.
- C. The person accused will be notified that a written complaint has been filed and informed of the nature of the complaint. Complainants will then have the opportunity to pursue their allegations without fear of retribution and to seek relief from proved sexual harassment. Alleged offenders will have the opportunity to defend themselves and clear themselves of the complaint. Please note that reports made more than 300 days after the date of the event may or may not be investigated at the discretion of the Sexual Harassment Committee.
- D. Upon receiving a written complaint of sexual harassment, the Mediator will solicit a response from the accused, who will thereafter be referred to as the "respondent".
- E. After receiving the complaint and response, the Mediator will determine whether the complaint should be processed through the Sexual Harassment Committee.

**Sexual Harassment Committee Members**

The President will appoint the Mediator for the Sexual Harassment Committee. The Mediator will serve a five-year term. The Director of Human Resources and Dean of Student Affairs will serve as standing

committee members. The Provost will appoint one faculty female and one faculty male representative to serve and the Vice President for Administration and Finance will appoint one female and one male staff representative to serve. The Sexual Harassment Committee will be a representative group of both genders.

The Sexual Harassment Committee will try to convene within 10 ten working days after the date the Mediator receives the written complaint of sexual harassment from the complainant. The committee will schedule a hearing, complete its investigation, and deliver a report to the Vice President of Academic Affairs/Provost within twenty (20) working days after the date the Mediator receives the written complaint.

Current committee members:

|   |                 |          |
|---|-----------------|----------|
| Mediator of the Sexual Harassment Committee<br>(Five Year Term)   | Kathleen Walker | 792-7353 |
| Dean of Student Affairs<br>(Ex Officio)                           | Peg Layton      | 792-7277 |
| Director of Human Resources<br>(Ex Officio)                       |                 | 792-7375 |
| Female Faculty Representative<br>(appointed by Provost-3 yr term) | Susan Sliva     | 792-7395 |
| Male Faculty Representative<br>(appointed by Provost-2 yr term)   | Steve Ellers    | 792-7433 |
| Female Staff Representative<br>(appointed by VPAF-2 yr term)      | Donna Keeling   | 792-7219 |
| Male Staff Representative<br>(appointed by VPAF-3 yr term)        | James Rector    | 792-7234 |

**Sexual Harassment Committee Hearing**

- A. Only the Sexual Harassment Committee may conduct hearings.
- B. The parties to a Committee complaint will be invited to appear together before the Sexual Harassment Committee. The hearing must be a private hearing, and the Committee members or the parties should make no public statements about the case involved.
- C. The Committee will conduct the hearing and may call and examine witnesses in order to ascertain the facts. Both the complainant and the respondent may identify witnesses to be called, although the Committee retains final authority to determine who may testify.
- D. The Committee may, at its discretion, permit direct questioning of a witness by the complainant and the respondent, or may require that questions be suggested to the Committee, which will then question the witness, at its discretion.
- E. The failure of a respondent to appear at the hearing will not delay the hearing from proceeding nor will it prejudice the committee in any way.
- F. The Mediator or Sexual Harassment Committee will maintain an adequate record of all proceedings, interviews, compiled evidence and findings.

## **Report of the Hearing**

The report of the Mediator or the Sexual Harassment Committee will include:

1. A recitation of the complainant's allegations;
2. A recitation of the respondent's response to the allegations;
3. Findings of fact as to each allegation and any additional matters considered during the investigation;
4. Factors that mitigate or aggravate the conduct, should a violation be found;
5. All supporting evidence compiled;
6. A statement of a resolution from the committee for both the complainant and respondent.

## **Determination of Violations and Discipline**

- A. The Mediator will submit the report to the Vice President for Academic Affairs/Provost, who may accept the report or direct the Mediator or Sexual Harassment Committee to undertake additional investigations and make additional findings of fact, as needed. The final report will be forwarded to the President for disciplinary determination, unless the President delegates determination authority to another person.
- B. Based on the final report, the President or his delegate will determine whether a violation of the Sexual Harassment Policy has occurred.
- C. If a violation is found, the President or his delegate may consult, as necessary, with appropriate officials and/or the Mediator and/or members of the Sexual Harassment Committee to determine appropriate discipline. The discipline selected will be reasonably calculated to deter repetition of the offensive conduct, taking into account the nature and seriousness of the violation and any proven acts concerning previous violations of sexual harassment.
- D. Violations of the sexual harassment policy may be punished by any appropriate method, up to and including termination of an employee or expulsion of a student. In the case of employees and student workers, lesser sanctions may include a warning, requirements of an apology, letter of reprimand, suspension, or non-renewal of contract. Students may be required to apologize, be censured, have their official records only annotated that they committed the breaking of school policy (without naming the offense), or suspended from school.
- E. The complainant and the respondent will be informed promptly of the President's final disciplinary determination.

## **Appeals**

### **A. General Information**

1. Either party may appeal the factual findings of the Mediator of the Sexual Harassment Committee.
2. If the respondent accepts the factual findings, but disputes the discipline assessed, the respondent may request reconsideration with the President.
3. There will be only one appeal from the outcome of a sexual harassment investigation. Accordingly, if the respondent objects to both the factual findings and the disciplinary determination, the appeal must address both issues at the same time.

### **B. Appeal from an original proceeding of the Sexual Harassment Committee**

1. Within (10) ten working days after being notified of the President's disciplinary determination, either party may appeal the factual findings of the Sexual Harassment Committee directly to the President by written letter of appeal. The appeal may point out:
  - (a) errors in the Committee's findings of fact, or
  - (b) omissions of fact, which the Committee

should have addressed, but did not, and which would have altered the determination that sexual harassment occurred or the discipline imposed.

2. If the Sexual Harassment Committee's factual findings are neither erroneous nor incomplete, as judged by the President, the appeal will be denied.

C. Request for Reconsideration of Disciplinary Determination

1. The mediation report will contain findings as to factors, which should be considered in assessing discipline. If these findings are in error or omit important facts, the respondent should appeal the factual findings.
2. On the other hand, if the respondent accepts the factual findings, but believes the discipline is too harsh, the respondent may file a request for reconsideration by the President for imposition of a different punishment.
3. A request for reconsideration must be filed with the President within ten (10) working days after receiving notice of the disciplinary determination.
4. The President will rule on a request for reconsideration within ten (10) working days of receiving the request.
5. Only the respondent may file a request for reconsideration.
6. A request for reconsideration is not necessary if the respondent has appealed the factual finding of the mediation.
7. Because a request for reconsideration does not attack the factual findings of the mediation, the mediation will not be reopened.

**Outside Agencies**

If the complainant feels that the University's mediation has not been satisfactory, they have the right to contact the Equal Opportunity Commission, 512/437-3450. Complaints must be filed within thirty (30) days of the adverse action.

**Process/Hearing Records**

- A. Documentation will be secured in the Human Resources Office on all complaints. The documentation will remain in the office for a period of time to be adjusted by state and federal standards before disposal.
- B. No records shall be placed of the process/investigation, other than a notation: "A University policy was violated," in the employee personnel file or student file of anyone who has been stated as committing a violation.

## Notice of Harassment/Discrimination Complaint

**Directions:** If you believe that you have been unlawfully harassed/discriminated against, please fill out this form and return it to the Human Resource Office. If more space is necessary, please continue your comments on the back of this form.

Name: \_\_\_\_\_ Date of Complaint: \_\_/\_\_/\_\_

Department: \_\_\_\_\_ Job Title: \_\_\_\_\_

**Basis of Discrimination:**     Sex(Gender)    Race    Color    Retaliation    Age    Religion  
    Creed    National Origin    Disability    Sexual Orientation  
    Marital or Veteran Status or any other legally protected classification.

Individual(s) who allegedly committed harassment/discrimination:

a.) \_\_\_\_\_

b.) \_\_\_\_\_

c.) \_\_\_\_\_

1. Describe the nature of your complaint. Include dates and as much detail as possible.
  
  
  
  
  
  
  
  
  
  
2. Why do you believe this action was taken against you?
  
  
  
  
  
  
  
  
  
  
3. Identify all employees, students or others with knowledge of the conduct about which you are complaining:
  
  
  
  
  
  
  
  
  
  
4. Did employees, students, or others listed on the previous page personally observe or overhear the alleged conduct? If yes, please indicate the dates of observed/overheard behavior.

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**Complaint Form**

5. Are there documents or emails which contain information supporting the occurrences described above?
  
  
  
  
  
  
  
  
  
  
6. Is there any physical evidence that supports your complaint? If so, please describe or attach a copy.
  
  
  
  
  
  
  
  
  
  
7. Have you missed any work time/class time as a result of the alleged harassment/discrimination? If yes, please indicate dates of absences.
  
  
  
  
  
  
  
  
  
  
8. Have you received any counseling or received medical treatment as a result of this alleged harassment? If yes, indicate dates of counseling/treatment.
  
  
  
  
  
  
  
  
  
  
9. Have you previously complained about this or related acts of sexual harassment/discrimination to a University supervisor or official? If so, please identify the individual to whom you complained, the date of the complaint and the resolution of your complaint.
  
  
  
  
  
  
  
  
  
  
10. What is your requested remedy in this complaint?

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**Harassment/Discrimination**  
**Complaint Form**

11. Are there any other individuals you want the University to contact regarding your complaint? If so, who do you wish contacted and why?

**Acknowledgment**

To investigate your complaint, it will be necessary to interview you, the alleged harasser(s), and any witnesses with knowledge of the allegations or defenses. The University will notify all persons involved in the investigation that it is confidential and that unauthorized disclosures of information concerning the investigation could result in disciplinary action, up to and including termination of employment.

The information provided in this complaint is true and correct to the best of my knowledge. I am willing to cooperate fully in the investigation of my complaint and provide whatever evidence the University deems relevant.

\_\_\_\_\_  
**Signature**

\_\_\_/\_\_\_/\_\_\_  
**Date**

