

## Smith College Sexual Harassment Policy – Formal Complaint Procedures

When the enforcement of Smith College's Sexual Harassment Policy includes the filing of a formal complaint, the procedures described below are used. These procedures are designed to determine if the allegations support a finding of sexual harassment and to result in appropriate action in response to those findings.

The following excerpts labeled 'Policy' are from the Smith College Sexual Harassment Policy and provide the context for these Complaint Procedures, labeled 'Procedure'. For the complete policy please see <http://www.smith.edu/oid/documents/SexualHarassmentPolicy3-9-07PDF.pdf>

These procedures are meant to guide everyone involved in the formal complaint process and are subject to change and modification. Nothing in the 'procedures' sections below is intended to grant 'rights.'

Questions about these procedures may be addressed the General Counsel (413-585-2135).

### **1. Policy: Formal Complaint**

An individual who believes that he or she has been subjected to harassment may file a formal complaint with the College. This may be done in writing or orally by contacting the Director of Institutional Diversity (413-585-2141). If the Director is unavailable or if circumstances make it more appropriate, the complaint may be filed with the Executive Director of Human Resources (413-585-2260), or the Dean of Students (413-585-4940), or the Dean of the School for Social Work (413-585-7977), or the Associate Provost (413-585-3000), or the Director of Public Safety (413-585-2490). These individuals are also available to discuss any concerns related to sexual harassment and to provide information about the College's policy on harassment and its complaint process.

### **Procedure:**

The complaint will be received by one of the individuals named above or his or her designee if appropriate or necessary (referred to here as the 'intake counselor'). PROMPT action in response to receipt of a formal complaint will be taken.

The formal complaint best serves the complainant and the process of investigation when it is in writing. It may be drafted with the assistance of the intake counselor and should specify who, what, when, where, and how of all information related to the allegations. The written complaint should be signed and dated by the complainant and the intake counselor.

Federal and State agencies that receive complaints of sexual harassment in the workplace limit their jurisdiction to complaints that occurred no more than 300 days prior to the date of the complaint. The College is not so narrowly constrained, but the length of time that has passed between the formal complaint and the incidents complained of need to be considered in light of the relationship of the parties and whether there was a reasonable explanation for waiting longer than 300 days. In some cases, a complaint though potentially involving incidents that occurred too long ago to address the complainant's experience, may raise issues that require addressing climate within a department or unit, or a serial harasser who is the subject of repeated but 'stale' complaints. In these cases the intake counselor will discuss actions the College may take to address these concerns with appropriate administrators including the general counsel.

### **2. Policy: Complaint Investigation**

When the College receives a formal complaint, it will promptly investigate the allegation. An investigator will determine facts that support findings about the complaint. The investigation generally will include interviews with: (1) the complainant; (2) the respondent; (3) witnesses (if any and if deemed necessary by the College) and others as determined by the investigator.

All employees and students are expected to cooperate fully in efforts to investigate and enforce this policy. When the College has completed the investigation, the findings of the investigation will be shared with the complainant, the respondent, and others involved to the extent appropriate.

Investigators of sexual harassment complaints include the Director of Institutional Diversity, the Executive Director of Human Resources, and the Dean of the School for Social Work, the Dean of Students, the Associate Provost, and the Director of Public Safety. There may be circumstances in which one of these investigators will appoint another person to conduct the investigation.

**Procedure:** If the investigator and the intake counselor are not the same person, an investigation will generally begin with an interview of the complainant to the extent necessary to understand any details not in the written complaint.

The investigator will hold records of the investigation until findings are made to avoid any breach of privacy laws such as the Family Educational Rights and Privacy Act or the personnel records of employees. The investigative file should include a copy of all policies and procedures that apply to the investigation and a log of all interviews, phone conversations, meetings, and activities that were part of the investigation. All written documentation, including the interview notes and anything submitted by any parties involved should be part of the investigator's file. Once completed the investigator's file will be held by the Office of Institutional Diversity.

Investigators should develop a timeline for the investigation. Generally, 'progress reports' of the investigation will NOT be available to anyone. However, the investigator may choose to share information with the complainant and the respondent as appropriate.

Investigators will be trained and will treat everyone in the process with respect and neutrality. Interviews will include opportunities for the interviewee to learn more about the sexual harassment policy and possible outcomes of this procedure. Investigators will be conversant with all applicable policies that may affect the rights of both the complainant and the respondent including union contracts, academic freedom, information privacy policies and other grievance procedures.

Even if the complainant decides to withdraw a complaint at some point during the investigation, the investigator may nonetheless, depending on the severity and pervasiveness of the alleged harassment, issue findings and recommend action.

Upon completion of the investigation, the person who conducted the investigation will meet individually with the person who made the complaint and the individual or individuals against whom the complaint was made, to prepare the results of the investigation and, where a remedy is determined to be appropriate, to inform the parties of the steps that will be taken to remedy the situation.

### **3. Policy: Confidentiality**

The College recognizes that confidentiality is very important. All actions taken to investigate and resolve complaints shall be conducted with as much privacy, discretion, and confidentiality as possible without compromising the thoroughness and fairness of the investigation. All persons involved in an investigation are expected to treat the process with respect and to hold information confidentially. Information about individual complaints and their disposition will be shared only on a "need to know" basis. However, even informal efforts to end harassment may require that an accused harasser learn of the identity of the complainant. The College will work closely with students or employees to ensure their ability to complete their academic program or continue to work during all stages of handling an informal or formal complaint of sexual harassment.

<sup>1</sup> Other policies that identify complaint processes include:  
(i) the procedures of the Faculty Committee on Grievance, which hears grievances presented by faculty members pertaining to their employment status; Faculty Code, Committee on Grievance;  
(ii) the procedures of the Student Judicial Board, which hears matters involving infractions of non-academic rules; and  
(iii) the administrative staff or administrative support staff complaint procedures, or union complaint procedures.

**Procedure:** During the investigation, the investigator has primary responsibility for maintaining the confidentiality of information. The investigator is also responsible for helping the complainant devise a plan for continuing his or her work or academic program if the investigation concerns a respondent who is a direct or indirect supervisor or who is in a teaching relationship with the complainant.

#### **4. Policy: Disciplinary Action**

If it is determined that an employee or student has engaged in sexual harassment or other inappropriate conduct, the College will take action appropriate under the circumstances. Such action may include written warnings, required counseling, probation, suspension, termination, or expulsion, and it may include such other forms of disciplinary action, as the College deems appropriate. Likewise if it is determined that a complainant invoked the investigatory process in bad faith or knowingly presented false or misleading information, appropriate disciplinary action may be taken.

**Procedure:** Investigators will share findings in meetings with the complainant and the respondent. The investigator will report findings to the Director of Institutional Diversity who will inform the appropriate administrators at the College who have responsibility for the employment or other relationship with respondent. The Director has responsibility for advising appropriate administrators with respect to how similar incidents may have been handled in the past and to ensure that the investigation was fair and unbiased. Any rights granted by other policies of the College will be considered by the administrator in determining what disciplinary action to take, if any, including rights to appeals.

#### **5. Policy: Retaliation Prohibited:**

Retaliation against an individual for making a complaint or for assisting in the investigation of such a complaint will not be tolerated.

**Procedure:** All acts of retaliation are subject to disciplinary action. If an individual involved in an investigation believes s/he has been retaliated against, s/he should contact one of the on-campus resources listed under Formal Complaint.