

Smith College SEXUAL HARASSMENT POLICY

Smith College is committed to maintaining an environment free of discrimination or forms of harassment that unreasonably interfere with the security, well-being, or academic experience of any member of the community. Sexual harassment on campus or in other settings related to College employment or enrollment, is unlawful, as well as unethical, and will not be tolerated. The College will respond promptly to formal complaints of sexual harassment, and, where it is determined that sexual harassment has occurred, will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate. This policy applies to all activities of the College, including Smith sponsored study abroad programs.

While this policy sets forth the College's goal of promoting a work and educational environment that is free from harassment, the policy is not designed or intended to limit the College's authority to discipline or take remedial action for conduct that the College deems inappropriate or unacceptable, regardless of whether that conduct satisfies the legal definition of harassment.

Definition of Sexual Harassment

Both federal and state laws define and prohibit sexual harassment in employment and in the provision of educational services to students. In Massachusetts, the legal definition of sexual harassment is as follows: "sexual harassment" means sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature when:

- a. submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or enrollment or is used as a basis for employment or educational decisions, placement services or evaluation of academic achievement; or
- b. such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work or educational performance by creating an intimidating, hostile, humiliating or sexually offensive work or educational environment.

Under these definitions, direct or implied requests by a supervisor, professor, athletic coach or trainer, or other individual responsible for work or academic evaluations for sexual favors in exchange for actual or promised job or academic benefits constitutes sexual harassment. Benefits include grades, academic assignments, research opportunities, favorable reviews and recommendations, salary increases, promotions, increased benefits and continued employment or enrollment.

Sexual harassment can occur between individuals of the same gender and regardless of sexual orientation. The same standards that apply to harassment between individuals of the opposite sex apply to harassment involving individuals of the same sex.

The legal definition of sexual harassment is broad, and, in addition to the above examples, other sexually-oriented conduct may also constitute sexual harassment. Whether intended or not by the person engaging in the conduct, sexually-oriented conduct that is unwelcome and has the effect of creating an environment that is hostile, offensive, intimidating or humiliating to another on the basis of sex may also constitute sexual harassment.

Commitment to Academic Freedom

As an academic institution, teaching, doing research, and learning are subject to the protections of 'academic freedom' as described in the College's policy on academic freedom. (See related matters at

the end of this policy.) Actions or words used in the context of the academic curriculum and teaching environments that serve legitimate and reasonable educational purposes will not be evaluated as sexual harassment or other unlawful discrimination because of the principles underlying academic freedom.

Examples of Conduct

While it is not possible to list all circumstances that constitute sexual harassment, the following are some examples of conduct that may constitute sexual harassment depending upon the totality of the circumstances, including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances - whether they involve physical touching or not;
- Threats or insinuations that a person's employment, wages, academic grade, promotional opportunities, classroom work assignments or other conditions of employment or academic life may be adversely affected by not submitting to sexual advances;
- Dissemination of sexually explicit voicemail, email, graphics, downloaded material or web sites;
- Unwelcome sexual epithets, sexual jokes, written or oral references to sexual conduct, gossip regarding one's sex life;
- Unwelcome comment about an individual's sexual activity;
- Displaying sexually suggestive objects, pictures or cartoons;
- Unwelcome leering, sexual behavior, or sexual gestures;
- Unwelcome inquiries into another's sexual experiences;
- Unwelcome discussion of one's sexual activities;
- Creating a hostile environment for others by engaging in harassing conduct that affects the workplace, or the teaching or research environment, or affects others' ability to compete for grades, research opportunities, academic or work assignments, compensation, and/or employment benefits. In addition to the conduct described above, romantic involvement (even if consensual) between supervisors and subordinates or between a faculty member and a student may create a hostile environment.

Depending on the totality of the circumstances and the nature of the complaint, the fact that a relationship began as a consensual relationship may NOT be a defense to a claim of sexual harassment.

Informal Resolution and Opportunities to ask Questions

An individual who believes he or she has been subjected to sexual harassment is advised to make it clear to the offender that such behavior is offensive. Early informal methods are often effective in correcting questionable behavior or resolving incidents of possible harassment. See the resources link at www.smith.edu/sao/sexualharassmentresources/ for contact information of specialists and others who can help an individual decide what to do and, as appropriate, help an individual through the process of both informal and formal resolution.

By bringing the matter immediately to the attention of a supervisor, the Advisor for Equity Complaints, the Dean of Students, the Dean of the School for Social Work, the Associate Provost, or the Executive Director of Human Resources, the College can assure that prompt efforts will be made to help assess the situation, and determine what informal or formal steps are necessary.

Responding to a Complainant

If you have supervisory responsibilities, as do academic department chairs and managers, and possible harassment or other violations of this policy are reported to you, whether or not the person making the report is personally affected, you must immediately advise the Advisor for Equity Complaints. This reporting will result in an evaluation of how best to respond and can include informal resolution, intervention, or filing of a formal complaint (see below).

If you are a faculty member who receives information from a person who believes that she or he is being or has been sexually harassed your obligation is to consult with someone who has been trained in sexual harassment awareness and response www.smith.edu/sao/sexualharassmentresources/. Be aware that the complainant's interest in confidentiality and the reputation of the respondent are of equal importance at every stage of considering information shared. Depending on the totality of the circumstances and the nature of the complaint, and especially if the complainant is a student, information may have to be shared with the Advisor for Equity Complaints.

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 Advisor for Equity Complaints (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.

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 Advisor for Equity Complaints, the Executive Director of Human Resources, 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.

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.

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.

No Retaliation for Filing or Assisting with a Complaint of Sexual Harassment

Retaliation against any individual for making a good faith complaint of sexual harassment or for assisting in good faith in the investigation of such a complaint is illegal and will not be tolerated. All acts of retaliation are subject to disciplinary action. Individuals who believe they have been subject to retaliation should immediately report their concerns to the Advisor for Equity Complaints.

Commitment to Awareness and Response Training

The College provides regular sexual harassment awareness and response training programs for supervisors and individuals identified with responsibilities in this policy. Additionally, the College informs the community about what constitutes sexual harassment and our moral and ethical commitment to ending sexual harassment.

State and Federal Agency Complaints

In addition to the above, an individual who believes he or she has been subjected to harassment may file a formal complaint with government agencies with jurisdiction. Using the College's complaint process does not prohibit an individual from filing a complaint with any of these agencies. Claims filed with MCAD or EEOC must be filed within 300 days from the date of the alleged violation.

Massachusetts Commission Against
Discrimination (MCAD)
436 Dwight Street, Rm 220
Springfield, MA 01103
Telephone: (413) 739-2145

U. S. Equal Employment Opportunity Commission
(EEOC)
John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
Telephone: (617) 565-3200

Complaints from students may also be filed with the U.S. Department of Education's Office of Civil Rights within 180 days from the date of the alleged violation.

U.S. Department of Education
Office for Civil Rights
33 Arch Street, Suite 900
Boston, MA 02110-1491
Telephone: 617-289-0111

Related Matters

Sexual Assault or Rape: <http://www.smith.edu/sao/sexualassaultresources/>

Statement of Principle on Sexual Relations Between Faculty and Students, Faculty Code Appendix H:
<http://www.smith.edu/deanoffaculty/code/CODENEW.pdf>

Statement of Academic Freedom and Freedom of Expression, Faculty Code Appendix A:
<http://www.smith.edu/deanoffaculty/code/CODENEW.pdf>

This policy replaces and supersedes all prior policies of the College on sexual harassment.

Approved by President Christ May 27, 2009