

**SHEPHERD UNIVERSITY
BOARD OF GOVERNORS
POLICY 4**

TITLE: SEXUAL HARASSMENT

SECTION 1. GENERAL

- 1.1 Scope - This policy defines sexual harassment, provides guidelines for filing sexual harassment complaints and explains what action will be taken against those found to have engaged in sexual harassment.
- 1.2 Authority - West Virginia Code § 18B-1-6, §18B-2A-4. A policy statement issued by the Office for Civil Rights of the U.S. Department of Education on the interpretation of the following: Title IX of the Education Amendments of 1972 and Equal Employment Opportunity Commission (EEOC) interpretative guidelines issued in March, 1980; and subsequent federal court decisions on the subject of sexual harassment.
- 1.3 Effective Date - September 11, 2008, Amending the March 21, 2006 Version of the Policy.

SECTION 2. POLICY

- 2.1 It is the policy of the Board of Governors to maintain a work and educational environment free from all forms of sexual harassment of any employee, applicant for employment or student. Sexual harassment in any manner or form is expressly prohibited. It is the responsibility of the institution to provide educational opportunities to create this free environment and to take immediate and appropriate corrective action when sexual harassment is reported or becomes known. Supervisors at every level are of primary importance in the implementation and enforcement of this policy.

SECTION 3. DEFINITION

- 3.1 Sexual Harassment Definition - Sexual harassment is intended to be defined consistent with EEOC and United States Department of Education guidelines. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:
 - 3.1.1 submission to such conduct is an explicit or implicit condition of employment;

- 3.1.2 submission to or rejection of such conduct is used as the basis for employment decisions; or
- 3.1.3 such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance, or creating an intimidating, hostile or offensive work or educational environment.

SECTION 4. FILING of COMPLAINTS

4.1 Official Process: Informal Resolution of Harassment Complaints

Informal resolution of complaints, when possible, can be an effective way of correcting misconduct. The process is as follows:

(1) A victim or third party submits a complaint to the campus Ombudsperson or University Affirmative Action Officer [the AAO], who shall coordinate the response to the complaint. An initial meeting between the Ombudsperson or AAO and complainant takes place. All options are explained by the Ombudsperson or AAO.

(2) If the Informal Resolution option is chosen, the complainant may engage in the following actions:

a. Opt for a meeting with the alleged harasser and the Ombudsperson. All parties are permitted to bring support persons (friend, family member, colleague, etc.). The Ombudsperson can limit the number of support persons present to a reasonable number. The Ombudsperson will serve as mediator, listening to all views and establishing a resolution document or mediation agreement as appropriate.

b. Opt for the Ombudsperson to meet with all parties separately. The Ombudsperson listens to all views, presents views of opposing parties to each other, and establishes a resolution document or mediation agreement as appropriate.

(3) The resolution document or mediation agreement may include a "no-contact arrangement" and/or other provisions. The outcome of the informal resolution should meet the satisfaction of all parties to the fullest extent possible. If the complainant is not satisfied, the Ombudsperson will review other options available.

(4) The AAO may act on behalf of the Ombudsperson in this process. Records, including the resolution document, are submitted to the office of AAO for filing.

(5) The AAO will follow-up with parties within two weeks of the resolution if one was reached. Additional follow-up contacts will be made as needed.

(6) Proceedings and records will be confidential to the fullest extent possible. If additional complaints arise subsequently as to the same employee, the earlier records may be evidence of a continuing practice of misconduct.

(7) Complainants should act in a timely fashion. The Ombudsperson will, in all cases, attempt to resolve informal complaints within two weeks of notification of the complaint.

4.2 Official Process: Formal Resolution of Harassment Complaints

Any person who feels that informal resolution of a complaint will not be or has not been satisfactory should file a formal written complaint with the AAO.

(1) Since the passage of time makes the resolution of complaints more difficult, it is recommended that the written complaint be filed as soon as possible from the date of the incident(s).

(2) A complaint filed against a professor by a student currently enrolled in the professor's class should be made as soon as possible. The student may choose to have the complaint held confidentially until the end of the semester, at which time the complaint will be resolved. But some situations may require immediate action on the part of the University.

(3) A complaint against another student will be referred to the Assistant Dean of Students for management as a student disciplinary matter.

(4) The President shall annually designate a ten-member body made up of five faculty and five staff. The AAO will randomly select two panelists from the same group as the person accused and one panelist from the other group to investigate each formal complaint. Immediate supervisors of the accused or the accuser, or any person with a specific, known bias, will be excluded from serving on the three member panel. The formation of the panel will be completed within two weeks of the submission of the written complaint, except where extenuating circumstances require additional time.

(5) When a formal written complaint against an employee is received by the AAO, a three-member panel will be selected (as noted in number 4) and copies of the complaint will be given to panel members. Panel members will conduct such investigation into the facts and circumstances of the complaints as may be deemed appropriate by any of the panel members.

(6) The panel may meet with the accuser, accused, and any witnesses relevant to its investigation, but shall at all times act collectively as a group and not individually. The investigation will be completed within four weeks of the formation of the panel, except where extenuating circumstances require additional time.

(7) The panel shall prepare a written report of its factual findings and conclusions regarding the merits of the complaint. This report may, if applicable, include dissenting conclusions. If the report finds any part of the complaint to be meritorious, then the report will designate appropriate action with respect to the perpetrator. The panel will complete the written report within one week of the close of the investigation, except where extenuating circumstances require additional time.

(8) The panel shall direct its written report to the AAO and to the executive officer who supervises the accused. The AAO shall then provide a copy of the report to the accused and the accuser and notice of whether the executive officer implemented some form of adverse action as to the employee-perpetrator.

(9) Appeals on the part of the accuser may be directed to the President. The accused may appeal any adverse action by following the established grievance procedures of the University.