

Name of Policy: Sexual harassment and other forms of harassment.



Policy Number: 3364-50-01

Approving Officer: President

Responsible Agent: Assistant to the President for Institutional Diversity

Effective date: December 1, 2007

Scope: All University of Toledo Campuses

	New policy proposal	Minor/technical revision of existing policy
X	Major revision of existing policy	Reaffirmation of existing policy

(A) Policy statement

The University of Toledo (“university”) is committed to high standards of professional conduct by all members of the university community, including faculty, students, residents, physicians, volunteers, employees, supervisors, managers and executive officers.

(B) Purpose of policy

The university is committed to maintaining an environment that is free from sexual harassment and other forms of harassment to enable all employees and students to perform to their highest level of potential. Harassment impedes the realization of the university’s vision to become a leader among academic institutions and health science centers in education, service and research. The university is committed to creating an educational environment that facilitates the acquisition of both the knowledge and the interpersonal skills needed to provide effective, professional and compassionate care. The university is also committed to creating and maintaining a hostile free academic and working environment while at the same time protecting freedom of speech and preserving the widest possible dialogue within its instructional and research settings.

(C) Standard of review

This policy shall be applied and interpreted in accordance with existing legal standards. Complaints of harassment on the basis of sex, race, color, national origin, religion, disability or handicap, age, veteran status, sexual orientation, gender identity and expression, political affiliation or any other unlawful basis, will be dealt with on a case-by-case basis taking into consideration the totality of the circumstances including the nature, frequency, intensity, severity, location, context, intent and duration of the questioned behavior. Although repeated incidents generally create a stronger claim for harassment, a severe incident, even if isolated, can be sufficient. For example, a single suggestion that academic, other educational, or employment rewards or reprisals will

follow the granting or refusal of sexual favors, will constitute violation of the university's sexual harassment and other forms of harassment policy and grounds for action in accordance with the university's policies, procedures, bylaws, and applicable collective bargaining agreements.

Furthermore, conduct forms the basis of a harassment claim if a reasonable person, in view of all the surrounding circumstances, would consider it sufficiently severe or pervasive to interfere unreasonably with academic, other educational, or employment performance or participation in a university activity or living environment.

(D) Procedure

(1) Sexual harassment

Sexual harassment defined. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- (a) Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in clinics, a class, an educational program, or activity;
- (b) Submission or rejections of such conduct by an individual is used as the basis for employment or educational decision affecting such individual; or
- (c) Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Responsibilities. All members of the university community are responsible for knowing the provisions of this policy, ensuring compliance with this policy, discouraging conduct prohibited by this policy, and cooperating with any investigation undertaken pursuant to this policy. Any member of this community who believes that he or she has received a report of harassment will remind the reporting person of the procedures set forth in this policy and encourage the reporting person to file a formal or informal (verbal) complaint as outlined in this policy.

Prohibited conduct. Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- (a) Physical touching or groping;
- (b) Unwelcome sexual propositions, invitations, solicitations, and flirtations;

- (c) Threats or insinuations that a person's employment, wages, promotion, clinical or classroom work or assignments, work or academic status, or other conditions of employment or education may be adversely affected by not submitting to sexual advances;
- (d) Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls;
- (e) Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or educational environment, which may embarrass or offend individuals;
- (f) A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort or humiliation to another; or
- (g) Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Conduct must be sufficiently severe or pervasive to adversely affect an individual's employment or education, or to create a hostile or abusive employment or educational environment.

This policy addresses intentional conduct. It also addresses conduct which results in negative effects even though such negative effects may not have been intended. Sexually-related conduct forms the basis of a sexual harassment claim if a reasonable person, in view of all the surrounding circumstances, would consider it sufficiently severe or pervasive to interfere unreasonably with academic or employment performance or participation in a university activity.

Sexual harassment more often occurs when one person has actual or apparent power or authority over another; however, it may also occur between individuals of equal status or rank within the university community. Sexual harassment may occur between males and females and between persons of the same gender.

The university does not wish to interfere with anyone's personal life. However, conduct away from the university community can still affect the university community. Accordingly, all of the definitions of harassment in this policy cover behavior during working hours and non-working hours including university sponsored programs, seminars, conferences, business trips or business related social events and conduct that occurs directly or indirectly via telephone or other electronic communication through the internal or external mail system (including email) and other written communication.

Complaint procedure. Any person who believes that he or she has been subjected to sexual harassment by any employee, faculty member, student, patient, visitor or contractor may file a formal written complaint or informal (verbal) complaint. The

complaint form can be obtained from the office of institutional diversity or may be obtained online at <http://www.meduohio.edu/depts/oid/>. Completed complaints may be filed with the office of institutional diversity, department of human resources, office of student life, the office of faculty relations, or the office of student judicial affairs. The employee may ask to speak with either a female or male person at the university. All complaints received must immediately be reported and forwarded to the office of institutional diversity.

All complaints shall be filed within three hundred (300) days of the harassment. Individuals should make every effort to file a complaint as soon as possible after the harassing behavior occurs. The procedures set forth below have been established to provide a prompt and equitable process for resolving complaints of unlawful harassment. students alternatively may access the complaint process set forth in the student code of conduct of The University of Toledo policy manual.

All complaints should be made promptly and resolved as quickly as possible. The complainant and the respondent should be kept apprised of the progress of the investigation as well as the ultimate outcome. The university will make every effort to accommodate parties who are unable to participate in a formal investigation because of physical incapacity or geographical location.

Upon receiving a complaint, the assistant to the president for institutional diversity in conjunction with the vice president of administration, or their designee(s) will consider whether any action should be taken in the investigatory phase to protect the complainant from further harassment or retaliation including but not limited to, a change of job assignment or a change of class schedule. In making such a determination, either the assistant to the president for institutional diversity or the vice president of administration or their designee(s) will consult the complainant to obtain his/her agreement. If the complainant is unwilling to consent to any change which is deemed appropriate, the assistant to the president for institutional diversity and the vice president of administration or their designee(s) may still take whatever actions they deem appropriate. In matters relating to or involving a complaint of unlawful harassment by one student against another, such a determination will be made by the assistant to the president for institutional diversity or their designee in conjunction with the vice president of student affairs.

The purpose of an investigation is to gather and verify facts. Investigations will be conducted by a two or three-person team consisting of representatives from the office of institutional diversity, human resources or the office of the appropriate vice president or dean when necessary. When investigators are appointed, they will be assigned on a rotating basis to avoid any subjectivity pertaining to which investigators are chosen to investigate a particular allegation. Investigators will be selected who have no connection with the alleged conduct and will be selected by the office of institutional diversity.

Interviews. The investigation will begin within five (5) business days of receiving a complaint by the interviewing of the complainant. An interview will then be held with the

person alleged to have engaged in the harassing conduct, hereinafter referred to as the “respondent” and at that time the respondent will be informed about the nature of the allegations, the prohibitions against retaliation and will be given a copy of this policy. In addition, those individuals who are known to have personal knowledge of the facts set forth in the complaint will be interviewed. Any documentation or other evidence presented by the complainant, the respondent or any other witness which is reasonably believed to be relevant to the allegation will also be considered. Nothing in this policy will preclude the university from investigating and taking action in connection with violation of these policies that are not the subject of the particular complaint being investigated.

No complaints may be filed by one person on behalf of another person. Complainants or relevant witnesses who are interviewed may be accompanied by others who wish to support them. However, except for bargaining unit employees that may be entitled to union representation where the interview could result in the discipline of the bargaining unit employee based on the objective reasonable man standard, those individuals may not participate in the interview process. No person who files a complaint will suffer any form of discrimination, retaliation or reprisal as a result of filing a complaint. The university reserves the right to investigate any report of conduct which may constitute harassment whether written or verbal and regardless of when it is made in relation to the alleged conduct. The filing of a malicious or knowingly false report or complaint, however, is prohibited by this policy.

Substance of complaints. A written complaint of sexual harassment will set forth the complaining party’s name and, if applicable, his or her position, department, shift and immediate supervisor; a description of the alleged offense; the identity of the person responsible for the alleged offense; a list of persons who may have witnessed the alleged offense; a description of the date, time and place in which the alleged offense occurred; and a statement of the conciliatory remedial action which the complaining employee requests the university to take. In the event a formal written complaint is not submitted, the university reserves the right to take whatever steps are necessary to adequately investigate any informal verbal complaint it receives and to discipline accordingly.

Additional considerations. Although the primary purpose of this policy is to address individual complaints of alleged sexual harassment, the university is committed to the broader purpose of maintaining a work and academic environment free from sexual harassment. Consequently, the university reserves the right to take appropriate investigative and disciplinary action, even if the complaining party subsequently withdraws a complaint of alleged sexual harassment, or the complaining party requests that no formal disciplinary action be taken against the alleged offender.

Report of the investigating team. The investigating team will prepare and submit written summaries to the assistant to the president for institutional diversity and a report will be written by the assistant to the president for institutional diversity or their designee. If the assistant to the president for institutional diversity has a conflict, the vice president of administration or their designee will write the report and undertake all associated duties.

Findings. Immediately upon receipt of the report of the investigating team, the assistant to the president for institutional diversity or their designee will prepare and submit a written report. Prior to the completion of the report the assistant to the president for institutional diversity or their designee will discuss with the appropriate administrator(s), dean, department chairperson or vice president possible resolutions to the issues. If the respondent is an employee in a non-academic department, a copy of the report will be submitted to the vice president for administration and to the appropriate administrator. They will jointly decide the action to be taken, if any, within seven working days. If the respondent is a student, member of the faculty, or employee in an academic department, a copy of the report will be submitted to the appropriate vice president, department chairperson or dean and to the executive vice president and provost for academic affairs (main campus) or to the executive vice president and provost for health affairs and dean (health science campus). A joint decision on what action should be taken, if any, by the appropriate vice president, department chairperson or dean and the executive vice president and provost for academic affairs or the executive vice president and provost for health affairs and dean will be made within seven working days. Dependent upon the complexity of the allegations and the investigation, the timelines herein may be extended for a reasonable period of time.

Corrective measures. If an allegation of sexual harassment is substantiated, appropriate corrective action will follow and steps will be taken to ensure the sexual harassment is stopped immediately. Corrective measures commensurate with the severity of the offense will be imposed in accordance with applicable university policies, procedures, bylaws and collective bargaining agreements and may include but are not limited to reprimand, suspension, or dismissal and/or expulsion from the university.

The university uses a disciplinary system for this and other misconduct in which the extent of the disciplinary action taken depends on all the factors and circumstances available at the time the decision is made. The severity of the punishment will depend on the frequency and severity of the offense. Corrective action could include a requirement not to repeat or continue the harassing conduct, a reprimand, denial of a merit pay increase, reassignment or suspension. A finding of sexual harassment may be cause for the separation of the offending party from the university, in accordance with applicable and relevant university policies, procedures, bylaws and collective bargaining agreements. Every effort will be made to assure sanctions are appropriate for the findings. The complainant and the respondent will be notified of the final disposition of a formal complaint.

Sanctions imposed will become a part of the employee's personnel records. Sanctions also may be imposed on any individual with a duty to act (under this policy and associated procedures) who fails to respond to a complaint of sexual harassment in a manner consistent with the provisions of this policy, as well as associated procedures, bylaws and applicable collective bargaining agreements. The complainant will be informed of the corrective measures taken.

In cases where the university cannot determine that sexual harassment has occurred, but as a result of its investigation determines that other policies have been violated, the university may impose discipline in accordance with other university policies, procedures, bylaws and applicable collective bargaining agreements.

Confidentiality, respect and retaliation. The university will make every reasonable effort to consider all proceedings in a manner to protect the confidentiality of all parties to the extent it may be protected by law. Parties to the complaint should treat the matter under investigation with discretion and respect for the reputation of all parties involved. Anonymity and complete confidentiality cannot be guaranteed. All complainants should be advised that their identity may be disclosed to the respondent. The university and state and federal law prohibit retaliation against an individual for reporting sexual harassment, or for participating in an investigation. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the sexual harassment allegation.

False report prohibited. Any person who is found, after appropriate investigation, to have filed or reported a knowingly false or malicious complaint of sexual harassment will be subject to discipline, up to and including termination or expulsion. Discipline will be imposed in accordance with university policies, procedures, bylaws, and any applicable collective bargaining agreement. Notwithstanding the foregoing, no person will be disciplined or suffer reprisals of any kind as a consequence of filing a complaint in good faith, even if it is determined, after appropriate investigation, that the accused party did not engage in sexual harassment. A written record of all disciplinary action imposed as a result of an investigation conducted pursuant to this policy will be forwarded to the office of institutional diversity for statistical purposes.

Public records and student educational records. All records created as a part of an investigation of a complaint of harassment will be maintained in the office of institutional diversity. Any records which are considered students educational records in accordance with the Family Educational Rights and Privacy Act will be maintained by the office of institutional diversity in a manner consistent with the provisions of the Family Educational Rights and Privacy Act and the Ohio Public Records Act.

Training. The university will train supervisors to prevent sexual harassment and to correct promptly sexually harassing behavior. The university will train non-supervisory employees on the sexual harassment policy and the procedures to follow if they experience sexual harassment. The university will conduct specific training from time to time in departments where allegations of sexual harassment arise. The university will provide general sexual harassment training for employees and students.

Reporting requirements. To assure university wide compliance with this policy and with federal and state law, the office of institutional diversity must be advised of all reported incidents of sexual harassment and their resolution. The office of institutional diversity will use this information to prepare annual statistical reports for the campus community on the incidence of sexual harassment.

(2) Other forms of harassment

Harassment defined. Harassment is defined as any verbal or physical action that is severe or sufficiently pervasive with respect to a certain class or group in that it alters the conditions of employment or learning and creates an abusive working or learning environment. Examples might include an extreme or repeated action with relation to one of the categories listed below that is objectively offensive, including one that demeans, ridicules, insults, offends, intimidates, threatens, is deemed unwelcome, injures another or is considered quid pro quo.

No person associated with the university may be subjected to harassment based upon:

- Age
- Color
- Sexual orientation
- Gender identity and expression
- Disability or handicap (physical or mental)
- National origin
- Race
- Religion
- Political affiliation
- Veteran status

Complaint procedure. Any person who believes that he or she has been subjected to other forms of harassment by any employee, faculty member, student, patient, visitor or contractor may file a formal written complaint or make an informal complaint with the office of institutional diversity, department of human resources, office of faculty relations, office of student life, and office of student judicial affairs.. Complaints alleging other forms of harassment as identified above shall be processed, investigated and resolved in accordance with the provisions of this policy applicable to the processing, investigation and resolution to complaints of sexual harassment, set forth in section (D) above, as well as the standard of review set forth in section (C) above. Similarly, discipline may be imposed upon respondents found to have engaged in unlawful harassment, or those complainants having been found to have filed a knowingly false or malicious complaint of harassment. Discipline shall be imposed in accordance with applicable university policies, procedures, bylaws and collective bargaining agreements.

Questions concerning this policy may be directed to the office of institutional diversity at 419-530-2508, 419-383-3609 or, the office of human resources at 419-383-4700.

<p>Approved by:</p> <p><u>/s/ laj</u> Lloyd A. Jacobs, M.D. President</p> <p><u>January 11, 2008</u> Date</p>	<p>Policies Superseded by This Policy:</p> <p><i>Former Health Science Campus policy 01-075 Harassment, previous effective date November 21, 2005</i></p> <p><i>Former Main Campus policy 3360-50-01 Unlawful Harassment, previous effective date December 15, 2004</i></p> <p>Initial Effective Date: 12/1/07 Review/Revision Date: Next Review Date: 12/1/2010</p>
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