

# Sexual Harassment



**YALE UNIVERSITY**

*Guide for Faculty, Students and Staff*

*Sexual harassment is an affront to human dignity and fundamentally at odds with the values of Yale University. Because the University is committed to maintaining a community for study and work that is free from sexual harassment, the University will not tolerate any member of that community sexually harassing another.*

*Please read this publication carefully and familiarize yourself with the campus resources available to students, faculty and staff in preventing and dealing with sexual harassment.*

## **Yale University Statement on Sexual Harassment**

Sexual harassment is antithetical to academic values and to a work environment free from the fact or appearance of coercion. It is a violation of University policy and may result in serious disciplinary action. Sexual harassment consists of non-consensual sexual advances, request for sexual favors, or other verbal or physical conduct of a sexual nature on or off campus, when: (1) submission to such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing; or (2) submission to or rejection of such conduct is used as the basis for employment decisions or for academic evaluation, grades, or advancement; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating or hostile academic or work environment. Sexual harassment may be found in a single episode, as well as in persistent behavior. Conduct that occurs in the process of application for admission to a program or selection for employment is covered by this policy, as well as conduct directed toward University students, faculty or staff members.

## WHAT IS SEXUAL HARASSMENT?

Sexual harassment is a form of illegal discrimination on the basis of an individual's gender. It frequently involves an expression of sexual conduct that seeks to exploit a relationship in which there is an imbalance of power (e.g., supervisor/subordinate; teaching assistant/student; faculty member/student). It can also occur where there is a perception of power among or between colleagues or between individuals with no formal business or academic relationship.

In an academic setting, where freedom of expression is a paramount value, there can be a fine line between speech that is permissible and sexual harassment. The determination depends on the facts of the particular case.

### There are two general types of sexual harassment:

#### A. *Quid Pro Quo*

"*Quid pro quo*" is a Latin term that implies a trade off, "this for that" or "something for something." The harassment occurs when a job, job benefit or academic evaluation is directly linked to a subordinate's, co-worker's or student's willingness to grant or deny sexual favors. For example, if an employee's work conditions are negatively affected by the denial of requested overtime or a change in work hours because of a refusal of a sexual favor, that is *quid pro quo* sexual harassment.

#### B. Hostile Environment

"Hostile environment" harassment is unwelcome conduct of a sexual nature that creates an intimidating, hostile or offensive working or academic environment and has the purpose or effect of substantially interfering with the victim's work or study. Hostile environment sexual harassment can include sexual advances, repeated taunts regarding sexual preferences, taunting jokes directed at a person or persons by reason of their sex, obscene posters with sexual connotations and sexual favoritism in work assignments.

## WHAT ARE SOME EXAMPLES OF SEXUAL HARASSMENT?

Sexual harassment may be physical and/or verbal in nature. Depending upon pervasiveness and severity, conduct that may be considered sexual harassment includes the following:

The overt situations are generally understood, such as:

- Unwanted sexual advances or comments
- Unnecessary touching of a person's body
- Implied or overt threats of punitive employment actions as a result of rejection of sexual advances

More subtle incidents may also be considered sexual harassment. Examples include:

- Sending sexually oriented emails and voice mails, even if distributed widely
- Sexual jokes
- Repeated asking for a date when the person has declined
- Display of sexually oriented cartoons, objects, posters
- Indirect sexual innuendo such as voice inflection when complimenting appearance or gazing at parts of the body other than the face

*Note: When sexual harassment involves physical contact, the University's policy on sexual assault may apply.*

## WHO ARE THE TARGETS OF SEXUAL HARASSMENT?

Both women and men may be sexually harassed, though women are more frequently the targets of sexual harassment. Sexual harassment may occur between males and females and between persons of the same gender.

Both subordinates and co-workers may be victims of sexual harassment. While a co-worker does not have the direct ability to hire or fire another co-worker, the person may influence a job evaluation or create an intolerable working environment.

A mutual, romantic relationship between two employees can develop into sexual harassment. For example, suppose a male supervisor and a female subordinate who work together are dating and she decides to end the relationship. If the male supervisor uses his supervisory authority as leverage to seek to compel her to continue the relationship (for example, by voicing criticism of behavior found acceptable during the relationship or threatening to have her disciplined or discharged if she does not continue the relationship), then such unwelcome conduct would constitute sexual harassment.

## HOW DO PEOPLE TEND TO DEAL WITH SEXUAL HARASSMENT?

- They may try to avoid dealing with the problem directly out of fear, disbelief or embarrassment.
- They may minimize the situation, treating it like a joke or deciding it was not really important.
- They may pretend nothing is happening, trying not to notice, hoping it will cease, trying to forget about it.
- They may offer excuses for the harasser or interpret the behavior as flattering.
- They may suffer in silence, fearing retaliation, blame or embarrassment, or believing no one will help.

## MEN AND WOMEN VIEW SEXUAL HARASSMENT DIFFERENTLY

Research shows that women as a group perceive unwelcome sexual attention as a much more serious offense than men as a group do. Many men say that they find certain behavior flattering, such as sexual comments and sexual approaches if applied to them. Most women do not.

Recently the courts have recognized this difference. Some courts are now using the standard of a "reasonable woman" rather than a "reasonable person" for judging the welcomeness or unwelcomeness of behavior in cases alleged to constitute sexual harassment of women.

## What can you do if you feel you are being sexually harassed?

Any gesture or remark of a sexual nature that makes you feel uncomfortable, threatened, intimidated or pressured may be a sign that you are experiencing sexual harassment.

**Don't Delay.** Don't be led into believing that if you just wait a while this will all blow over and go away. It probably won't. The longer you delay, the more difficult it may be to resolve the problem.

**Take Action.** Don't ignore the situation. Silence may be misinterpreted as consent. Unless you do something about the situation, it is unlikely that the inappropriate behavior will stop. Report the complaint using the procedures described below. Make note of any relevant events, dates and witnesses.

### WHAT ARE THE CONSEQUENCES OF SEXUAL HARASSMENT AT THE UNIVERSITY?

Clearly, sexual harassment affects the victim of the harassment. The employee or student may suffer a performance decline, disrupted education, disrupted relationships, intense anger, etc. A student's educational goals may also be significantly affected if the student decides to avoid certain courses, change his or her area of study or transfer to another institution.

In addition, sexual harassment impacts the University and the department(s) involved. The University and department may experience an atmosphere of fear, declining work productivity and office morale, a loss of reputation, divisiveness, rumors, etc. If the employee resigns, the institution and department must also deal with the loss of an employee and absorb the cost of hiring and training a new employee.

### UNIVERSITY PROCEDURES FOR ADDRESSING SEXUAL HARASSMENT:

Students, faculty and staff should report incidents of sexual harassment. If you believe you may be the victim of sexual harassment, you should take immediate steps to end the behavior.

Persons found to have engaged in sexual harassment will be subject to disciplinary action, up to and including termination or expulsion.

The University provides both an informal and formal procedure for addressing sexual harassment complaints.

#### A. Informal Procedure

An individual who feels she/he is being harassed may seek to resolve the matter informally (i.e. without a formal investigatory process or disciplinary action being taken against the accused individual). An example of an informal complaint is one where the complainant requests only that a supervisor counsel the accused individual to stop the alleged conduct and requests no other specific action(s) be taken against the accused. The main purpose of the informal procedure is to stop the inappropriate behavior. Informal complaints are not required to be made in writing, although keeping a record of events, dates and witnesses is recommended.

#### Informal ways to resolve a complaint of sexual harassment:

- Confront the harasser face to face. Tell the person that his or her behavior toward you is making you uncomfortable. Be very specific about what occurred. Convey the very clear message that you don't want the harassing behavior to continue.
- Write a letter to the harasser. The letter should be very specific and make clear that you want the behavior to stop. The letter should be hand-delivered in the witness of another person. Be sure to keep a copy for yourself. The Office for

Equal Opportunity Programs can help you plan what to say or write, and likewise, can counsel persons who receive such communications.

- Request advice and/or intervention from a third party. You are encouraged to consult with any of the campus resources listed on page [?] for support and assistance at any point during the informal process of addressing a possible claim of sexual harassment.
- In cases where the supervisor is the alleged harasser, you may take the issue to the supervisor's immediate supervisor. The immediate supervisor is expected to take prompt steps to resolve the matter. If the supervisor is a faculty member, the employee is to take the matter to the appropriate department chair or dean.
- In cases where an employee of a vendor or sub-contractor of the University is the alleged harasser, discuss the issue with the head of the department in which you work or any other resources listed herein.
- In cases where a faculty member is the alleged harasser, contact his/her department chair or any other resources listed herein.

*Note: The University will attempt to balance the wishes of the complainant who does not wish to file a formal complaint with the University's responsibility to respond to serious allegations and take prompt, appropriate corrective action. The complainant will be informed in advance of any action taken.*

## B. Formal Procedure

If your concerns cannot be satisfactorily resolved by the informal procedure, you may file a formal complaint as described below. Staff members with specific complaints of sexual harassment or general concerns or questions should contact a supervisor or the University's Director of the Office for Equal Opportunity Programs.

### 1. Faculty

Faculty members who believe they have been sexually harassed may use the complaint review procedures described in Section III.L or III.M of the Faculty Handbook. Any faculty member concerned about an issue of sexual harassment is encouraged to discuss it with the dean of her or his school, the Office of the Provost, or the school's or University's Title IX Coordinator.

### 2. Students

A complaint of sexual harassment by a student in Yale College, the Graduate School, the Divinity School, the School of Medicine or the School of Nursing against a faculty member or administrator in his or her respective school must be pursued in accordance with the procedure for complaints of sexual harassment adopted by that school. Each of these schools has created a grievance board, with established procedures, both informal and formal, for addressing student complaints of sexual harassment. Copies of the grievance procedures may be obtained from the respective Deans' Offices.

Complaints of sexual harassment by students in other schools may be pursued by means of one of two general student grievance procedures. The first is the Dean's Procedure for Student Complaints. This is the available procedure if the person complained of is a member of the student's school. The second, the Provost's Procedure for Student Complaints, is the appropriate procedure if the person complained of is not a member of the faculty or administration for the student's school and therefore

not subject to the authority of the student's dean. Copies of these procedures are available at the respective Deans' or Student Affairs Offices.

In a case where more than one procedure is available, a student may pursue his or her complaint by means of only one procedure; that is, procedures for redress of a complaint may not be used simultaneously or seriatim.

### 3. Staff

#### a. Non-Union Affiliated Staff:

The Staff Grievance Procedure, Section 800 of the Yale University Personnel Policies and Practices Manual, is available to all regular and temporary managerial and professional employees, as well as those clerical, technical, service and maintenance employees who are not included in the Local No. 34 or Local No. 35 bargaining units.

Copies of this procedure may be obtained from the Director of Placement and Staff Relations, 155 Whitney Avenue.

#### b. Staff Covered by the Bargaining Agreement with Local No. 34:

Article XXXVI of the Agreement between Yale University and Local No. 34, Federation of University Employees describes the grievance procedures available to address any claim by a member of that bargaining unit that the Agreement has been violated, including Article V, Section 3 concerning sexual harassment.

Copies of the Agreement are available at the Labor Relations Office, 155 Whitney Avenue; Central Area Human Resources Office, 155 Whitney Avenue; the Medical Area Human Resources Office, 153 College Street; and the Library Personnel Office, Sterling Memorial Library, 120 High Street.

#### c. Staff Covered by the Bargaining Agreement with Local No. 35:

Article XV of the Agreement between Yale University and the Federation of University Employees, Local No. 35 describes the grievance procedure available to address dis-

putes about the interpretation, application or alleged violation of any of the provisions of the Agreement, including Article XXVII on nondiscrimination.

Copies of this procedure are available at the Labor Relations Office, 155 Whitney Avenue.

#### d. Staff Covered by the Bargaining Agreement with the Yale Police Benevolent Association:

Article XVI, Grievance Procedure, of the Agreement between Yale University and the Yale Police Benevolent Association (YPBA), may be used to address any claim by an employee whose position is covered by the Agreement that the Agreement has been violated, including Article I, Section 3 on Nondiscrimination.

Copies of the procedure are available at the Labor Relations Office, 155 Whitney Avenue.

#### e. Special Education Teachers at the Cedarhurst School:

Article XX, Grievance Procedure, of the Agreement between Yale University and Local 933, AFP, AFL-CIO, may be used to address any claim by a member of the bargaining unit that the Agreement has been violated, but not limited to, the Article on No Discrimination.

Copies of the Procedure are available at the Labor Relations Office, 155 Whitney Avenue.

## AMENDMENTS TO PROCEDURES FOR ADDRESSING SEXUAL HARASSMENT

The University may modify or amend these procedures at any time. In the event the University determines that circumstances warrant modification / amendment of these procedures, timely notice of the change(s) will be provided, in writing, to relevant parties.

## RETALIATION IS PROHIBITED

Any person who retaliates against an individual who reports sexual harassment or files a sexual harassment complaint or for cooperating in an investigation of such a complaint, is subject to disciplinary action up to and including termination or expulsion by the University. If an employee feels he or she has suffered from reprisal in any form, this should be reported to the Vice President for Finance and Administration who will have the charge investigated when the individual against whom the charge is filed is a member of the staff. In the case of a charge of retaliation by a student or faculty member, the Vice President for Finance and Administration will refer the matter to the student's Dean or the faculty member's school.

## CONFIDENTIALITY

Confidentiality, to the extent permitted by law, will be observed to protect your identity and rights and those of the person against whom the complaint is being made, provided it does not interfere with the University's ability to investigate and take corrective action. In many instances, the University resource person will be able to address your concern(s) and stop the behavior without revealing your identity to the alleged harasser. Every effort will be made to protect the individual bringing forth the complaint and to respond to her or his concerns.

## SEXUAL HARASSMENT IS ILLEGAL

Sexual harassment is a violation of federal and state laws.

Title VII of the Civil Rights Act of 1964, as amended, and the federal regulations adopted under the Act, prohibit sex discrimination in the employment setting. The regulations define sexual harassment in the workplace as a distinct type of employment discrimination on the basis of sex. In 1980, the Equal Employment Opportunity Commission (EEOC) issued guidelines defining sexual harassment and stipulating that sexual harassment in the workplace is a violation of Title VII.

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex, including sexual harassment, in any educational programs and activities of educational institutions that receive federal funding. Students and employees are covered by Title IX.

The Connecticut Discriminatory Employment Practices Act prohibits discrimination on the basis of sex in employment. The Connecticut Commission on Human Rights and Opportunities (CCHRO) is the state enforcement agency for the Act. Connecticut law requires employers to provide educational training on sexual harassment in the workplace to supervisory employees.

### The Supervisor's Role In Preventing and Dealing with Sexual Harassment

As a supervisor, you can be personally responsible for sexual harassment incidents involving those who report to you if you knew or should have known about the conduct. The law requires that you take action; you should seek out assistance from your supervisor, Human Resource Services or the Office of Equal Opportunity Programs in deciding how to respond.

#### A. Prevention

- Be knowledgeable about what sexual harassment is, about Yale's policy concerning sexual harassment and about the resources (including formal and informal complaint procedures) available to Yale faculty, students and staff who complain of sexual harassment.
- Discuss Yale's sexual harassment policy with staff members before there is a complaint or problem.
- Attend and encourage staff members to attend training sessions on dealing with sexual harassment. The State of Connecticut requires employers to provide information sessions on sexual harassment issues for supervisory employees. All members of the faculty and staff who have the authority to hire, discharge, assign or direct one or more individuals are covered by the law and are required to attend one session.
- Be a role model so others will know what is acceptable behavior.

#### B. Take action.

- If someone comes to you with a complaint alleging sexual harassment, you should take prompt steps to resolve the matter. Don't blame the victim.
- Listen objectively, respect privacy, and inform the individual of the informal and formal University procedures for resolving the matter.
- Obtain the facts, document the complaint and come to an agreement with the person about what the next course of action will be.
- Don't take any direct action such as confronting the alleged harasser without the knowledge of the individual who has brought the complaint.
- Take the initiative if you suspect or know someone is being sexually harassed. do not ignore the issue.

## Campus Resources for Dealing with Sexual Harassment

The following administrators and faculty are available to respond to general concerns or questions or to address specific complaints of sexual harassment.

### ADMINISTRATIVE OFFICES

Office for Equal Opportunity Programs  
Valerie Hayes, *Director*  
William L. Harkness Hall  
Rooms 104 and 105  
Tel: 432-0849; Fax: 432-7884  
Email: valerie.hayes@yale.edu

Office of the Provost  
Hall of Graduate Studies  
Room 117  
Tel: 432-4444

### DEPARTMENT OF HUMAN RESOURCES

Katherine F. Matzkin, *Director*,  
*Compensation & Client Support*  
153 College Street  
Tel: 785-5103; Fax: 785-3165  
Email: katherine.matzkin@yale.edu

### OFFICE FOR WOMEN IN MEDICINE

Merle Waxman, *Director*  
Sterling Hall of Medicine  
Room L202  
Tel: 785-4680; Fax: 737-1622  
Email: merle.waxman@yale.edu

### GRIEVANCE BOARDS

SCHOOL OF MEDICINE GRIEVANCE BOARD  
ON SEXUAL HARASSMENT  
Merle Waxman  
Sterling Hall of Medicine  
Room L202  
Tel: 785-4680; Fax: 737-1622  
Email: merle.waxman@yale.edu

YALE COLLEGE GRIEVANCE BOARD FOR STUDENT  
COMPLAINTS OF SEXUAL HARASSMENT  
Betty Trachtenberg  
Yale College Dean's Office 110 SSS  
Tel: 432-2907; Fax: 432-7369  
Email: betty.trachtenberg@yale.edu

### DIVINITY SCHOOL SEXUAL HARASSMENT COMMITTEE

409 Prospect Street  
Tel: 432-5308; Fax: 432-5356

### GRADUATE SCHOOL GRIEVANCE BOARD FOR COMPLAINTS OF SEXUAL HARASSMENT

Contact: Pamela Schirmeister  
320 York Street  
Tel: 432-7598; Fax: 432-7765  
Email: pamelaschirmeister@yale.edu

### TITLE IX COORDINATORS 1999-2000

For current year appointments, please call  
the Office for Equal Opportunity Programs  
at 432-0849.

## POLICY ON TEACHER-STUDENT CONSENSUAL RELATIONS

The integrity of the teacher-student relationship is the foundation of the University's educational mission. This relationship vests considerable trust in the teacher, who, in turn, bears authority and accountability as a mentor, educator, and evaluator. The unequal institutional power inherent in this relationship heightens the vulnerability of the student and the potential for coercion. The pedagogical relationship between teacher and student must be protected from influences or activities that can interfere with learning consistent with the goals and ideals of the University. When-ever a teacher is responsible for directly supervising a student, a sexual relationship between them is inappropriate. Any such relationship jeopardizes the integrity of the educational process by creating a conflict of interest and may lead to an inhospitable learning environment for other students.

Therefore, no teacher shall have a sexual relationship with a student over whom he or she has direct supervisory responsibilities regardless of whether the relationship is consensual. Teachers must avoid sexual relationships with their students, including those for whom they are likely to have future supervisory responsibility. Conversely, teachers must not directly supervise any student with whom they have a sexual relationship. Violations of or failure to correct violations of these conflict of interest principles by the teacher will be grounds for disciplinary action.

Teachers or students with questions about this conflict of interest policy are advised to consult with the department chair, the appropriate dean, the Provost, or one of their designates. If the issue cannot be resolved informally, a student may lodge a conflict of interest complaint with the dean of the school in which the student is enrolled or where the teacher exercises his or her supervisory responsibilities.

For purposes of this policy, "direct supervision" includes the following activities (on or off campus): course teaching, examining, grading, advising for a formal project such as a thesis or research, supervising required research or other academic activities, and recommending in an institutional capacity for employment, fellowships or awards. "Teachers" includes, but is not limited to, ladder and non-ladder faculty as well as graduate and professional students and post-doctoral fellows and associates serving as teaching fellows or in similar institutional roles. "Students" refers to those enrolled in any and all educational and training programs of the University. Additionally, this policy applies to people in the Yale community who are not teachers as defined above, but have authority over students. Therefore, athletic coaches, supervisors of student employees, advisors and directors of student organizations, as well as others who advise, mentor or evaluate students, are covered by this policy.