

**WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS
POLICY 44**

**POLICY AND PROCEDURE REGARDING SEXUAL HARASSMENT
West Virginia University and its Regional Campuses**

Section 1: General

- 1.1 Scope: This rule sets forth the West Virginia University Board of Governors' Policy regarding sexual harassment.
- 1.2 Authority: WV Code §18B-1-6, §18B-2A-4; Sexual harassment is prohibited by:
- The 1980 Equal Employment Opportunity Commission (EEOC) interpretive guidelines on Title VII of the Civil Rights Act of 1964;
 - The Office of Civil Rights policy statement interpreting Title IX of the Educational Amendments of 1972; and
 - The West Virginia Human Rights Act.
- 1.3 Effective Date: June 2, 2006

Section 2: Policy Statement

- 2.1 The West Virginia University Board of Governors (WVUBOG or Board) is committed to providing students, faculty, staff, and applicants for employment with a work and educational environment free from all forms of sexual harassment. Therefore, sexual harassment, in any manner or form, toward WVUBOG students, faculty, staff, or applicants for employment is a violation of Board policy and is expressly prohibited.
- 2.2 All WVUBOG students, faculty, and staff are expected to:
- Engage in conduct that meets professional standards;
 - Remain sensitive to the effect of their actions and words on others;
 - Take appropriate action to prevent sexual harassment;
 - Avoid behavior that might be construed as sexual harassment; and
 - Acquaint themselves with this policy.

Those in supervisory positions have a special responsibility to discourage sexual harassment as well as to implement and enforce this policy.

- 2.3 Violators of this policy are subject to disciplinary action that may include sanctions as severe as discharge of an employee or expulsion of a student. In addition, sexual harassment that constitutes sexual assault or other criminal law violation will be referred to the appropriate authorities for prosecution.

Section 3: Accountability

- 3.1 Under the President, the Executive Officer for Social Justice, in conjunction with the Deans and Vice Presidents, shall implement and ensure compliance with this policy.

Section 4: Definitions

4.1 Sexual Harassment

Consistent with guidelines promulgated by the United States Department of Education, the WVUBOG uses the EEOC definition of sexual harassment.

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

- Submission to such conduct is an explicit or implicit condition of employment;
- Submission to or rejection of such conduct is used as the basis for employment decisions; or
- 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.

4.2 Consensual Relationships

Consensual relationships include amorous or romantic relationships and conduct that is not part of a typical platonic relationship.

Section 5: Requirements

5.1 General

The WVUBOG prohibits sexual harassment by any student, faculty member, or staff member. The Board is committed to creating and maintaining a work environment free of inappropriate, disrespectful conduct and communication of a sexual nature. The Board will not tolerate sexual behavior that interferes with an individual's work performance or that creates an intimidating, hostile, or offensive work or learning environment.

In determining whether alleged conduct constitutes sexual harassment, consideration shall be given to the record as a whole and to the totality of the circumstances, including the nature of sexual advances and the context in which the alleged incident(s) occurred.

Sexual harassment may occur between faculty members and students, supervisors and employees, students and students, faculty members and faculty members,

staff members and staff members, or any other combination of people. It may occur between people of the same sex or people of different sexes.

Examples of conduct that may be considered sexual harassment include the following:

- Subtle or overt pressure for sexual favors, accompanied by implied or overt threats concerning one's job, grades, letters of recommendation, or physical well-being;
- Insults, humor, jokes and/or anecdotes that belittle or demean an individual's or a group's sexuality or sex;
- Unwelcome sexual comments or inquiries about an individual's or a group's sexuality or sex;
- Inappropriate displays of sexually suggestive objects or pictures, which may include but not be limited to posters, pin-ups, calendars, and computer screen savers;
- Unauthorized entering of restrooms and other locations reserved for the exclusive use of the opposite sex;
- Unnecessary and unwelcome touching, such as patting, pinching, hugging, or repeated brushing against an individual's body; and
- Sexual assault.

5.2 Consensual Relationships

Although the Board acknowledges that consensual relationships are within the purview of individual privacy, such relationships that occur between persons of different ranks, including those between supervisors and supervisees or faculty and students, may lead to circumstances that result in sexual harassment.

These types of consensual relationships also may result in a hostile or offensive environment affecting other employees or students. For example, others may perceive a person involved in the consensual relationship as receiving favorable treatment in employment or educational decisions and actions.

5.3 Teacher-Student Relationships

It is a violation of WVUBOG policy for a faculty member to engage in an amorous, dating, or sexual relationship with a student whom the faculty member instructs, evaluates, supervises, or advises.

Where there is a pre-existing amorous, dating, or sexual relationship, the individual with the status advantage shall notify his or her immediate supervisor. The supervisor shall be responsible for making arrangements to eliminate or to mitigate a conflict, the consequences of which might prove detrimental to the institution, the Board or to either party in the relationship.

5.4 Confidentiality

The confidentiality of all parties involved in a sexual harassment charge shall be strictly respected insofar as it does not interfere with the Board's obligation to investigate misconduct allegations and to take corrective action.

5.5 Dishonest or Frivolous Complaints

If sexual harassment allegations are not substantiated, all reasonable steps shall be taken to protect the reputation of the accused. Moreover, if the complainant is found to have intentionally or maliciously been dishonest or frivolous in making the allegations, the complainant shall be subject to appropriate disciplinary action.

Section 6: Sexual Harassment Complaint Procedure

(Note: This procedure is the same as that for complaints of discrimination on the basis of age, color, disability, ethnic origin, marital status, race, religious beliefs, sex, sexual orientation, or veteran status.)

6.1 Sexual Harassment Complaint Procedure Guidelines

Any student, current or former employee, or applicant for employment or admission to the University who believes he or she has been sexually harassed ("complainant") may file a sexual harassment complaint.

Complaints must be filed with the Social Justice Office within 30 days following the alleged sexual harassment or the date on which the complainant knew of the alleged act.

A complaint may be filed with the Social Justice Office without prior discussions of the issue with any other University official. However, individuals are encouraged to attempt to resolve the complaint by first bringing the issue to their immediate supervisor or next level supervisor.

6.2 Extension of Time Limits

All of the time limits contained within this complaint procedure may be extended with the approval of the Executive Officer for Social Justice or his/her designee.

6.3 Complaints Filed With Other WVUBOG Departments or Units

Any complaint of sexual harassment that is filed with another WVUBOG department or unit shall be referred to the Social Justice Office within 24 hours or the next working day. The Executive Officer for Social Justice reserves the right to waive this requirement.

6.4 Responsibilities

When sexual harassment is alleged or suspected, the following persons have the following responsibilities:

6.4.1 The student, employee, or job applicant who believes he or she has been subjected to sexual harassment is responsible for:

- Whenever possible, attempting to resolve complaints through an immediate supervisor or next level supervisor. If such discussions fail to resolve the complaint, the complainant may seek a review of his/her complaint in accordance with the above complaint procedure;
- Contacting the Social Justice Office for advice and/or counseling; and
- Filing a sexual harassment complaint with the Social Justice Office if the situation remains unresolved.

6.4.2 The Social Justice Office is responsible for:

- Receiving a complaint and assisting the complainant in defining the charge and completing the complaint form;
- Apprising the person(s) named in the complaint (“respondent”) and his/her administrative office of the allegation and notifying them that retaliation is prohibited;
- Assisting the individuals named in the complaint in interpreting the charge;
- Obtaining a response to the charge from the respondent within ten working days;
- Upon receipt of the response from the respondent named in the complaint, investigating the complaint further if necessary and appropriate. The Social Justice Office shall have access to all necessary documents, the right to interview witnesses, and the ability to bring together the complainant and respondent, if beneficial;
- Upon completion of the investigation, issuing a finding on the case to all individuals named in the complaint within 20 working days. If there is no evidentiary basis for a charge of sexual harassment, the Social Justice Office shall indicate this conclusion to the complainant and advise him/her that the case is closed;
- Making recommendations for the resolution of the complaint if unlawful sexual harassment is found; and
- Monitoring the recommendations for implementation, and ensuring that appropriate disciplinary action is taken.

6.4.3 The respondent is responsible for:

- Providing a response to the charge within ten working days after receipt of the charge; and
- Taking no retaliation or reprisal against the complainant, others related to the complainant, or persons involved in the complaint investigation.

6.4.4 The respondent's supervisor is responsible for:

- Providing a response to the Social Justice Office within seven business days of the action taken with reference to the recommendations of the Social Justice Office; and
- Taking no retaliation or reprisal against the complainant, others related to the complainant, or persons involved in the complaint investigation.

This policy does not prohibit the employer from taking disciplinary action in appropriate circumstances.