

Sexual Harassment and Consensual Sexual or Romantic Relationships

Authority This Guide Memo was approved by the President.

Applicability This policy applies to all students, faculty and staff, as well as to others who participate in Stanford programs and activities.

Summary Stanford University strives to provide a place of work and study free of sexual harassment, intimidation or exploitation. Where sexual harassment is found to have occurred, the University will act to stop the harassment, prevent its recurrence, and discipline and/or take other appropriate action against those responsible.

See also: Sexual Harassment Policy Office web page at <http://harass.stanford.edu>.

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1. IN GENERAL

- a. **Applicability and Sanctions for Policy Violations** – This policy applies to all students, faculty and staff of Stanford University, as well as to others who participate in Stanford programs and activities. Its application includes Stanford programs and activities both on and off-campus, including overseas programs. Individuals who violate this policy are subject to discipline up to and including discharge, expulsion, and/or other appropriate sanction or action.
- b. **Respect for Each Other** – Stanford University strives to provide a place of work and study free of sexual harassment, intimidation or exploitation. It is expected that students, faculty, staff and other individuals covered by this policy will treat one another with respect.
- c. **Prompt Attention** – Reports of sexual harassment are taken seriously and will be dealt with promptly. The specific action taken in any particular case depends on the nature and gravity of the conduct reported, and may include intervention, mediation, investigation and the initiation of grievance and disciplinary processes as discussed more fully below. Where sexual harassment is found to have occurred, the University will act to stop the harassment, prevent its recurrence, and discipline and/or take other appropriate action against those responsible.
- d. **Confidentiality** – The University recognizes that confidentiality is important. Sexual harassment advisers and others responsible to implement this policy will respect the confidentiality and privacy of individuals reporting or accused of sexual harassment to the extent reasonably possible. Examples of situations where confidentiality cannot be maintained include circumstances when the University is required by law to disclose information (such as in response to legal process) and when disclosure is required by the University's outweighing interest in protecting the rights of others.
- e. **Protection Against Retaliation** – Retaliation and/or reprisals against an individual who in good faith reports or provides information in an investigation about behavior that may violate this policy are against the law and will not be tolerated. Intentionally making a false report or providing false information, however, is grounds for discipline.

- f. **Relationship to Freedom of Expression** – Stanford is committed to the principles of free inquiry and free expression. Vigorous discussion and debate are fundamental to the University, and this policy is not intended to stifle teaching methods or freedom of expression generally, nor will it be permitted to do so. Sexual harassment, however, is neither legally protected expression nor the proper exercise of academic freedom; it compromises the integrity of the University, its tradition of intellectual freedom and the trust placed in its members.
- g. **Required Training** – In compliance with California Government Code Section 12950.1, all supervisors who are employed by Stanford as of July 1, 2005, must receive sexual harassment training by no later than January 1, 2006, and be retrained every two years thereafter. Details about who is included and how this requirement can be met are located on the Sexual Harassment Policy Office website at http://harass.stanford.edu/training_mandated_07.html.

2. WHAT IS SEXUAL HARASSMENT?

Unwelcome sexual advances, requests for sexual favors, and other visual, verbal or physical conduct of a sexual nature constitute sexual harassment when:

- a. It is implicitly or explicitly suggested that submission to or rejection of the conduct will be a factor in academic or employment decisions or evaluations, or permission to participate in a University activity;
- or
- b. The conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or creating an intimidating or hostile academic, work or student living environment.

Determining what constitutes sexual harassment depends upon the specific facts and the context in which the conduct occurs. Sexual harassment may take many forms – subtle and indirect, or blatant and overt. For example,

- It may be conduct toward an individual of the opposite sex or the same sex.
- It may occur between peers or between individuals in a hierarchical relationship.
- It may be aimed at coercing an individual to participate in an unwanted sexual relationship or it may have the effect of causing an individual to change behavior or work performance.
- It may consist of repeated actions or may even arise from a single incident if sufficiently egregious.

The University's Policy on Sexual Assault (see Guide Memo 23.3, Sexual Assault, (http://adminguide.stanford.edu/23_3.pdf) may also apply when sexual harassment involves physical contact.

3. WHAT TO DO ABOUT SEXUAL HARASSMENT

Individuals seeking further information are directed to the following resources:

- The Sexual Harassment Policy Office at Mariposa House, 585 Capistrano Way, Room 209, Stanford, CA 94305-8210, (650) 723-1583 or 327-8259; email: harass@stanford.edu -- for information, consultation, advice, or to lodge a complaint. Note that anonymous inquiries can be made to the SHPO by phone during business hours.
- The Sexual Harassment Policy Office web page at <http://harass.stanford.edu>.
- Any designated Sexual Harassment Adviser or resource person listed in 3.a or 5.a.

The following are the primary methods for dealing with sexual harassment at Stanford. They are not required to be followed in any specific order. However, early informal methods are often effective in correcting questionable behavior.

- a. **Consultation** – Consultation about sexual harassment is available from the Sexual Harassment Policy Office, Sexual Harassment Advisers (including residence deans), human resources managers, employee relations specialists, counselors at Counseling and Psychological Services (CAPS) or the Help Center, chaplains at Memorial Church, the ombuds and others. A current list of Sexual Harassment Advisers is available from the Sexual Harassment Policy Office and at <http://harass.stanford.edu/SHAdvisers.html>. Consultation is available for anyone who wants to discuss issues related to sexual harassment, whether or not "harassment" actually has occurred, and whether the person seeking information is a complainant, a person who believes his or her own actions may be the subject of criticism (even if unwarranted), or a third party.

Often there is a desire that a consultation be confidential or "off the record." This can usually be achieved when individuals discuss concerns about sexual harassment without identifying the other persons involved, and sometimes even without identifying themselves. Confidential consultations about sexual harassment also may be available from persons who, by law, have special professional status, such as:

- Counselors at Counseling and Psychological Services (CAPS), <http://vaden.stanford.edu/caps/>
- Counselors at the Help Center, <http://www.stanford.edu/dept/helpcenter/>
- Chaplains at Memorial Church
- The University Ombuds, <http://www.stanford.edu/dept/ombuds/>
- The Medical Center Ombuds, <http://www.med.stanford.edu/ombuds/>

In these latter cases, the level of confidentiality depends on what legal protections are held by the specific persons receiving the information and should be addressed with them before specific facts are disclosed. For more information see. <http://harass.stanford.edu/resources.html>.

For further information on confidentiality, see Section 1(d) above.

- b. **Direct Communication** – An individual may act on concerns about sexual harassment directly, by addressing the other party in person or writing a letter describing the unwelcome behavior and its effect and stating that the behavior must stop. A Sexual Harassment Adviser can help the individual plan what to say or write, and likewise can counsel persons who receive such communications. Reprisals against an individual who in good faith initiates such a communication violate this policy.
- c. **Third Party Intervention** – Depending on the circumstances, third party intervention in the workplace, student residence or academic setting may be attempted. Third party intervenors may be the Sexual Harassment Advisers, human resources professionals, the ombuds, other faculty or staff, or sometimes mediators unrelated to the University.

When third party intervention is used, typically the third party (or third parties) will meet privately with each of the persons involved, try to clarify their perceptions and attempt to develop a mutually acceptable understanding that can insure that the parties are comfortable with their future interactions. Other processes, such as a mediated discussion among the parties or with a supervisor, may also be explored in appropriate cases.

Possible outcomes of third party intervention include explicit agreements about future conduct, changes in workplace assignments, substitution of one class for another, or other relief, where appropriate.

- d. **Formal Grievance, Appeal, and Disciplinary Processes** – Grievance, appeal, or disciplinary processes may be pursued as applicable.

- (1) Grievances and Appeals** – The applicable procedure depends on the circumstances and the status of the person bringing the charge and the person against whom the charge is brought. Generally, the process consists of the individual’s submission of a written statement, a process of fact-finding or investigation by a University representative, followed by a decision and, in some cases, the possibility of one or more appeals, usually to Stanford administrative officers at higher levels. The relevant procedure (see below) should be read carefully, since the procedures vary considerably.

If the identified University fact-finder or grievance officer has a conflict of interest, an alternate will be arranged, and the Director of the Sexual Harassment Policy Office or the Director of Employee & Management Services can help assure that this occurs.

In most cases, grievances and appeals must be brought within a specified time after the action complained of. While informal resolution efforts will not automatically extend the time limits for filing a grievance or appeal, in appropriate circumstances the complainant and the other relevant parties may mutually agree in writing to extend the time for filing a grievance or appeal.

A list of the established grievance and appeal procedures is located at <http://elr.stanford.edu/greivance.html>. Copies may also be obtained from the Sexual Harassment Policy Office.

Copies of the following may be obtained from Employee & Management Services, 215 Panama Street (MC: 4163):

- “Solving Workplace Problems at Stanford: Understanding the Staff Dispute Resolution Policy”
- “Solving Workplace Problems at Stanford: Information for Academic Staff – Librarians and Academic Staff – Research Associates”
- “The Dispute Resolution Process (A User’s Guide)”

- (2) Disciplinary Procedures** – In appropriate cases, disciplinary procedures may be initiated. The applicable disciplinary procedure depends on the status of the individual whose conduct is in question. For example, faculty are subject to the Statement on Faculty Discipline <http://www.stanford.edu/dept/provost/faculty/policies/handbook/ch4.html#statementonfacultydiscipline> and students to the Fundamental Standard. For additional information related to student judicial affairs, see <http://www.stanford.edu/dept/vpsa/judicialaffairs/>.

The individuals referenced in this section are available to discuss these options and differing methods for dealing with sexual harassment.

4. PROCEDURAL MATTERS

- a. Investigations** – If significant facts are contested, an investigation may be undertaken. The investigation will be conducted in a way that respects, to the extent possible, the privacy of all of the persons involved. In appropriate cases, professional investigators may be asked to assist in the investigation. The results of the investigation may be used in the third party intervention process or in a grievance or disciplinary action.
- b. Recordkeeping** – The Sexual Harassment Policy Office will track reports of sexual harassment for statistical purposes and report at least annually to the University President concerning their number, nature and disposition.

The Sexual Harassment Policy Office may keep confidential records of reports of sexual harassment and the actions taken in response to those reports, and use them for purposes such as to identify individuals or departments likely to benefit from training so that training priorities can be established. No identifying information will be retained in cases where the individual accused was not informed that there was a complaint.

- c. **Indemnification and Costs** – The question sometimes arises as to whether the University will defend and indemnify a Stanford employee accused of sexual harassment. California law provides, in part, "An employer shall indemnify [its] employee for all that the employee necessarily expends or loses in direct consequence of the discharge of his [or her] duties as such ..." The issue of indemnification depends on the facts and circumstances of each situation. Individuals who violate this policy, however, should be aware that they and/or their schools, institutes, or other units may be required to pay or contribute to any judgments, costs and expenses incurred as a result of behavior that is wrongful and/or contrary to the discharge of the employee's duties. In general, see Administrative Guide Memo 15.7 (http://adminguide.stanford.edu/15_7.pdf).

5. RESOURCES FOR DEALING WITH SEXUAL HARASSMENT

- a. **Advice** – Persons who have concerns about sexual harassment should contact the Sexual Harassment Policy Office, any Sexual Harassment Adviser at <http://harass.stanford.edu/index.html#Advisers> or one of the other individuals listed below. Reports should be made as soon as possible: the earlier the report, the easier it is to investigate and take appropriate remedial action. When reports are long delayed, the University will try to act to the extent it is reasonable to do so, but it may be impossible to achieve a satisfactory result after much time has passed.

Likewise, anyone who receives a report or a grievance involving sexual harassment should promptly consult with the Sexual Harassment Policy Office or with a Sexual Harassment Adviser.

There are a number of individuals specially trained and charged with specific responsibilities in the area of sexual harassment. In brief, they are:

- **Sexual Harassment Advisers**, <http://harass.stanford.edu/SHadvisers.html>, serve as resources to individuals who wish to discuss issues of sexual harassment, whether because they have been harassed or because they want information about the University's policy and procedures. There is usually at least one Adviser assigned to each of the schools at the University and to each large work unit; most of the residence deans also have been appointed as Sexual Harassment Advisers. Advisers are also authorized to receive complaints.
 - **The Director of the Sexual Harassment Policy Office** is responsible for the implementation of this policy. The Director's Office also provides advice and consultation to individuals when requested; receives complaints and coordinates their handling; supervises the other Advisers; encourages and assists prevention education for students, faculty and staff; keeps records showing the disposition of complaints; and generally coordinates matters arising under this policy. Because education and awareness are the best ways to prevent sexual harassment, developing awareness, education and training programs and publishing informational material are among the most important functions of the Sexual Harassment Policy Office: <http://www.stanford.edu/dept/shpo>.
 - As stated above, individuals with concerns about sexual harassment may also discuss their concerns informally with psychological counselors (for example through CAPS or the HELP Center), chaplains (through the Memorial Chapel), or University or Medical School ombuds. For more information, see: <http://www.stanford.edu/dept/shpo>
- b. **External Reporting** – Sexual harassment is prohibited by state and federal law. In addition to the internal resources described above, individuals may pursue complaints directly with the government agencies that deal with unlawful harassment and discrimination claims, e.g., the U.S. Equal Employment Opportunity Commission (EEOC), the Office for Civil Rights (OCR) of the U.S. Department of Education, and the State of California Department of Fair Employment and Housing (DFEH). These agencies are listed in the Government section of the telephone book. A violation of this policy may exist even where the conduct in question does not violate the law.

6. CONSENSUAL SEXUAL OR ROMANTIC RELATIONSHIPS

- a. **In General** – There are special risks in any sexual or romantic relationship between individuals in inherently unequal positions, and parties in such a relationship assume those risks. In the University context, such positions include (but are not limited to) teacher and student, supervisor and employee, senior faculty and junior faculty, mentor and trainee, adviser and advisee, teaching assistant and student, coach and athlete, and the individuals who supervise the day-to-day student living environment and student residents. Because of the potential for conflict of interest, exploitation, favoritism, and bias, such relationships may undermine the real or perceived integrity of the supervision and evaluation provided, and the trust inherent particularly in the teacher-student context. They may, moreover, be less consensual than the individual whose position confers power or authority believes. The relationship is likely to be perceived in different ways by each of the parties to it, especially in retrospect.

Moreover, such relationships may harm or injure others in the academic or work environment. Relationships in which one party is in a position to review the work or influence the career of the other may provide grounds for complaint by third parties when that relationship gives undue access or advantage, restricts opportunities, or creates a perception of these problems. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic involvement, this past consent does not remove grounds for a charge based upon subsequent unwelcome conduct.

Where such a relationship exists, the person in the position of greater authority or power will bear the primary burden of accountability, and must ensure that he or she – and this is particularly important for teachers – does not exercise any supervisory or evaluative function over the other person in the relationship. Where such recusal is required, the recusing party must also notify his or her supervisor, department chair or dean, so that such chair, dean or supervisor can exercise his or her responsibility to evaluate the adequacy of the alternative supervisory or evaluative arrangements to be put in place. (Staff members may instead, as an option, notify their local human resources manager.) To reiterate, the responsibility for recusal and notification rests with the person in the position of greater authority or power. Failure to comply with these recusal and notification requirements is a violation of this policy, and therefore grounds for discipline. The University has the option to take any action necessary to insure compliance with the spirit of this recusal policy, including transferring either or both employees in order to minimize disruption of the work group.

In those extraordinarily rare situations where it is programmatically infeasible to provide alternative supervision or evaluation, the cognizant Dean or Director must approve all evaluative and compensation actions.

- b. **With Students** – At a university, the role of the teacher is multifaceted, including serving as intellectual guide, counselor, mentor and advisor; the teacher's influence and authority extend far beyond the classroom. Consequently and as a general proposition, the University believes that a sexual or romantic relationship between a teacher and a student, even where consensual and whether or not the student would otherwise be subject to supervision or evaluation by the teacher, is inconsistent with the proper role of the teacher, and should be avoided. The University therefore very strongly discourages such relationships

7. POLICY REVIEW AND EVALUATION

This policy went into effect on October 6, 1993, and was amended on November 30, 1995, and on May 30, 2002. It is subject to periodic review, and any comments or suggestions should be forwarded to the Director of the Sexual Harassment Policy Office.