

# HOWARD UNIVERSITY POLICY

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**Policy Number:** 400-006  
**Policy Title:** TITLE VII (EMPLOYEE) POLICY AGAINST SEXUAL HARASSMENT IN THE WORKPLACE  
**Responsible Officer:** Chief Human Resources Officer  
**Responsible Office:** Office of the Chief Human Resources Officer  
**Effective Date:** June 5, 1999 (Original); December 14, 2011 (Interim)  
December 6, 2013 (Revised)

## I. POLICY STATEMENT

Howard University (the "University") reaffirms its commitment to providing employees with professional and occupational opportunities free from sexual harassment and discrimination based upon gender, gender expression, gender identity, sexual orientation, pregnancy, family or marital status. In furtherance of this commitment, the University strives to maintain an environment in which all employees in the University community are: (a) judged and rewarded solely on the basis of ability, experience, effort, and performance; and (b) provided conditions for employment and educational pursuits that are free from gender-based coercion, intimidation, or exploitation.

It is the policy of the University not to discriminate against any employee or applicant for employment on the basis of gender in violation of any applicable law including, but not limited to, Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e), and the District of Columbia Human Rights Act (D.C. Code § 1-2512), and for members of the Howard community working in the State of Maryland, Maryland Code of Fair Employment Practices Act (MD. Code Art. 49B).

This policy is applicable to sexual harassment in employment and to sexual harassment in education programs and activities. While it is the responsibility of the University to disseminate this policy, it is the responsibility of each member of the University Community to read the policy and to become familiar with its provisions. Moreover, failure to follow the procedures set forth in this policy may inhibit or prevent the University from properly investigating an instance of alleged sexual harassment, or from taking appropriate remedial action. Therefore, if an alleged victim fails to follow such procedure, he or she may be left without a remedy under this policy.

The University considers all allegations of sexual harassment to be extremely serious matters. Every complaint of sexual harassment submitted to the University in accordance with this Policy will be reviewed and investigated. The submission of false, spurious, or frivolous claims, however, will result in the immediate consideration of disciplinary action, up to and including termination or, in the case of a student, suspension or expulsion. Additionally, submission of a complaint alleging harassment or discrimination is considered to be a protected activity. Therefore, retaliation against any Complainant, Title IX Designee, administrator, faculty member, witness or individual involved in any aspect of the investigative process under this policy is strictly prohibited and will be sanctioned accordingly.

University policy on consensual relationships states that sexual relationships (including dating) between supervisors and their employees, including post-doctoral fellows and residents, or between students and faculty are strictly prohibited. In internal proceedings, the University generally will be unsympathetic to a defense based on consent when the facts establish that the accused employee had the power to affect the terms and conditions of the complainant's employment. If a complaint is filed in court and a legal action is thereby commenced against the University and/or such supervisor, the University may decline to represent the supervisor and may also decline to provide that supervisor any indemnification for damages awarded against him or her. In addition, in any legal action precipitated by a violation of this policy in which the University and a member of the University community are named as "co-defendants," the University may refuse to defend and/or indemnify any co-defendant who may be responsible for that violation.

This policy also applies to both non-employees and non-students. However, the extent of the treatment of those individuals will be dictated by the factual situation and remedial actions available.

## **II. RATIONALE**

In addition to violating federal and local law, sexual harassment can result in both physical and psychological harm to victims, while corrupting the positive work and academic environment the University strives to maintain. Therefore, sexual harassment on the part of any member of the Howard University community shall not be tolerated under any circumstance or condition, and is strictly prohibited under Title VII.

## **III. ENTITIES AFFECTED BY THIS POLICY**

This policy applies to all members of the University community. The actions proscribed by this policy are also applicable to all individuals who are on University premises or on any other property where the University conducts its business. If such an individual commits an act in violation of this policy, the University will take appropriate remedial measures under the circumstances to sanction the offender, mitigate against the potential for recurrence, and discipline any member of the University community who may have participated in such conduct, or who may have failed to stop such conduct when he or she had the authority to do so.

The University's Office of Human Resources is primarily responsible for implementing a similar policy with respect to employment matters and for ensuring that all employees are adequately trained or otherwise made aware of their responsibilities under this policy. The Title IX Coordinator is primarily responsible for implementing this policy with respect to students. [See 400-005 *Howard University Title IX (Student) Policy on Prohibited Sexual Harassment and Gender-Based Discrimination in Education Programs and Activities.*] Please note, all employees are expected to comply with the terms of the above-mentioned Title IX (Student) Policy.

#### IV. DEFINITIONS

This section includes definitions and examples.

- A. **Academic Freedom** - It is the policy of the University to afford faculty with a fair opportunity to teach and conduct research and to provide services to the community in a setting that provides the academic freedom necessary to cultivate a wide expanse of ideas and teaching methods. It is not the intent of this policy to inhibit the expression of such ideas or the use of such methods, provided that they are expressed or used in a manner that is consistent with the legitimate rights of students, this policy and the laws referred to herein.
- B. **Complaining Party** - Any member of the University community who believes that he or she has been subjected to sexual harassment, in violation of this policy
- C. **Disciplinary Action** – The administration of punitive measures for engaging in sexual harassment, or failing to carry out responsibilities established by this policy, that include measures up to and including separation from the University and possible reference for criminal prosecution.
- D. **Employee** - Any and all individuals who are formally hired by the University to provide services, whether for compensation or as a volunteer.
- E. **Education Programs and Activities** – all of the University’s operations affecting students including, but not limited to, traditional educational operations, faculty and student housing, campus shuttle bus service, campus restaurants, the bookstore, and other commercial activities.
- F. **Sexual Harassment** - With respect to academic programs and activities, the term "sexual harassment" shall mean unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
  - 1. Submission to such conduct is made either explicitly or implicitly a basis for any decision affecting the terms or conditions of participation in any such program or activity or status in an academic course; or
  - 2. Such conduct has the purpose or effect of unreasonably interfering with a student's educational right, privilege, advantage, or opportunity; or
  - 3. Such conduct is so pervasive or severe that it creates an intimidating, hostile, or offensive working environment for learning and has no reasonable relationship to the subject matter of the relevant course of instruction.

4. Examples of Sexual Harassment - The following examples are illustrative of conduct that, if proven, would be considered by the University to establish sexual harassment in either an employment or an academic setting:
  - a. unsolicited unwelcome flirtations, advances, and/or propositions of a sexual nature.
  - b. insults, jokes, or anecdotes that belittle or demean an individual or a group's sexuality or gender.
  - c. unwelcome sexually-oriented gestures, verbal expressions, or comments of a sexual nature about an individual's body, clothing, or sexual experience.
  - d. inappropriate displays of sexually suggestive objects or pictures.
  - e. unnecessary and inappropriate touching, such as patting, pinching, hugging, or brushing against an individual's body.
  - f. sexual assault (includes all incidents of "criminal sexual conduct" as defined by the District of Columbia Code or the applicable law where the sexual assault takes place).
  - g. suggestions that submission to or rejection of sexual advances will affect decisions regarding such matters as an individual's employment, work assignments, or status, salary, academic standing, grades, receipt of financial aid, or letters of recommendation.
5. In determining whether alleged conduct constitutes sexual harassment, the University will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the appropriateness of a particular action will be made from the facts, on a case by case basis.

**G. Sexual Orientation** - an individual's natural preference when developing emotional and sexual relationships with people of the same sex (homosexual relationships), opposite sex (heterosexual relationships) or either (bisexual relationships).

**H. University Community** - all members of Howard University including, but not limited to, members of the Howard University Board of Trustees, students, faculty, and administrative personnel. Also includes individuals engaged in participating in educational activities hosted by the University.

## V. POLICY PROCEDURES

In determining whether alleged conduct constitutes harassment or discrimination, the University will look at the record as a whole and the totality of the circumstances. This inquiry will examine information such as the nature of the sexual advances and the context in which the alleged incidents occurred. All determinations of the appropriateness of a particular action will be based upon the facts, and made on a case- by-case basis.

### A. Rights of the Parties

1. **Rights of the Complaining Party** - Any member of the University community who believes that he or she has been subjected to sexual harassment, in violation of this policy, is to promptly pursue the matter and to file a complaint in accordance with the procedures described in this policy. The complaining party, who initiates a complaint in good faith, will not be reprimanded, retaliated against, or discriminated against in any way. Nothing in this policy is intended to provide a complainant with any contractual or other legal rights. The purpose is to provide guidelines to the University community for the operation of an internal procedure to address sexual harassment and unlawful discrimination. This policy and its procedures may be changed at the sole discretion of the University at any time and without notice to the University community.
2. **Rights of the Alleged Subject** - A person against whom a complaint is lodged shall be presumed innocent of that charge unless and until there is a final administrative finding of culpability or a stipulated admission to the charge by that person.

**B. Declination to Defend or Indemnify** - The University will not defend or indemnify any member of the University community in any legal proceeding or other similar action alleging sexual harassment if the Office of General Counsel determines that such member violated this policy and may have acted either (1) in bad faith; or (2) in a manner adverse to the best interest of the University.

**C. Persons to Contact** - Complaints of sexual harassment arising out of employment must be brought to the attention of the University EEO & Diversity Director, or the appropriate EEO & Diversity Designee, for resolution in accordance with these procedures. Complaints about sexual harassment committed by agents or employees of vendors, independent contractors, or others who do business with the University, and by any other non-employee must be brought to the attention of the Chief Human Resources Officer and the EEO & Diversity Director.

A complainant should be directed to the EEO & Diversity Office if the employee feels that he or she has experienced discrimination on the basis of race, color, sex, national origin, religion, age, veteran status, disability, marital status, personal appearance, sexual orientation, family responsibilities, political affiliation, educational matriculation or retaliation. All forms of

complaints (including sexual harassment) should be directed to: **(202) 238-5960**. The EEO & Diversity Office's website is: <http://www.hr.howard.edu/EEO/default.htm>

If either of the individuals occupying the positions described in the preceding paragraph is the subject of a complaint, the complaint shall be filed with the General Counsel. With respect to such complaints, the General Counsel shall determine the most appropriate manner to investigate and resolve the complaint consistent with the remaining provisions of this policy.

Management level employees of the University, to whom an employee, vendor, visitor or student of the University has communicated a complaint of sexual harassment, must immediately report such complaint to the EEO & Diversity Officer. The report shall include the name of the employee, the date the complaint was brought to the manager's attention and a brief summary of the nature of the complaint.

Employees are encouraged to consult with the EEO & Diversity Officer if they have any questions regarding this policy including, but not limited to, the appropriateness of filing a complaint. If an employee so elects, the EEO & Diversity Officer or Designee, as appropriate, may attempt to affect a resolution of issues of concern prior to the filing of a complaint by the employee.

- D. **Required Information** - The complainant will be interviewed by a representative of the EEO & Diversity Officer and a formal written complaint will be prepared. The formal complaint must be in writing and include the name(s), date(s), time(s), description of specific incident(s), and any other information on which the complaint is based. The complainant must sign the complaint and be willing to be identified to witnesses and to the person against whom the complaint is directed, if that is determined necessary by the University to resolve the complaint.
- E. **Time of Filing** - A complaint of sexual harassment in employment must be filed within 45 calendar days following the date of the alleged harassment. If, however, an individual reasonably believes that he or she may be the subject of an adverse personnel action, in violation of this policy's prohibition against sexual harassment, a timely complaint must be filed within 30 calendar days after the employee had actual knowledge that the action would be taken, or within 30 days after the effective date of such adverse action, whichever is earlier. For the purposes of this paragraph the term "adverse action" shall include the failure to hire, firing, the failure to promote, demotion, and all forms of disciplinary action. Whether a complainant is timely or not with regard to the filing of a complaint, all discrimination complaints should be filed with the EEO & Diversity Director regardless of the date the alleged act(s) occurred.
- F. **Notice of Subject** - The subject of the investigation shall have the right be informed, in writing, of the charges contained in the complaint and to submit and written response to those charges.

- G. Interim Remedial Action** - Promptly upon notification of a complaint, the EEO & Diversity Director or the assigned EEO & Diversity Designee will discuss with the complainant the nature of the complaint and will determine whether interim remedial measures should be taken to alleviate problems or conflicts pending an investigation and resolution. Such measures may involve either the complainant or the accused (the "subject") and may include a transfer, reassignment of duties or reporting requirements, mandatory leave with or without pay, or other such appropriate measures. Such measures, however, shall not be considered disciplinary action against any person and may only be taken with the concurrence of the Chief Human Resources Officer, after consultation with the Office of General Counsel.
- H. Investigation** - The EEO & Diversity Director will conduct and/or manage, the investigations of all sexual harassment complaints regarding employment related issues. At the election of the EEO & Diversity Director, the conduct of an investigation may be delegated to the appropriate EEO & Diversity Designee or, with the concurrence of the General Counsel, to an outside firm or consultant. If an outside consultant or firm is used to conduct an investigation, it will be selected and retained solely by the General Counsel and its report of Investigation may be disclosed only to the extent authorized by the General Counsel.
- I. Methods of Investigation** - The conduct of investigations should include an interview of the complainant and may include one or more of the following fact-finding methods:
1. review of all relevant documents including, but not limited to, employment applications, performance reviews, and records of any past discipline;
  2. personal interviews with co-workers, supervisors, and/or any other person who may have knowledge or information relevant to the allegations in the complaint;
  3. letters of inquiry by the investigator to those persons described in (ii) above.
- J. Confidentiality** - To the fullest extent practicable and consistent with the University's need to investigate and take corrective action, complaints of sexual harassment will be processed confidentially. However, the name of the complainant may be revealed, as well as all material circumstances of the alleged sexual harassment, if the University determines that such action is necessary to resolve the complaint. In the event a complainant requests to keep his/her identify confidential, the investigator will inform the complainant that the confidentiality request may limit the University's ability to respond to the allegations and address the University's provisions against retaliation.
- K. Resolution** - Upon the conclusion of a sexual harassment investigation involving employment matters, a Report of Investigation shall be prepared and forwarded by the EEO & Diversity Director to the Vice President or other appropriate authority ("Decisional Authority") who has supervisory responsibility over the organizational unit employing the

subject. The Report shall contain a brief description of the complaint, a statement of the methodology used to investigate the complaint, findings of material fact, and an opinion of the investigator as to whether the allegations of the complaint are sustained by the facts.

A recommendation for whether specific remedial action will be taken must be provided by the Decisional Authority. The Decisional Authority shall take such remedial measures as may be appropriate under the circumstances, after consultation with the Office of General Counsel. The Decisional Authority's action, or declination of action, constitutes the final administrative action of the University and shall not be subject to appeal.

L. **Notification** - In the event that allegations of sexual harassment are sustained, the Decisional Authority responsible for reviewing the Report on Investigation shall: (a) prepare a notice of findings and of the remedial action taken or to be taken to be reviewed by the Office of General Counsel; (b), notify the subject of investigation of the findings and of the remedial action taken or to be taken; and (c) notify the complaining party that the allegations have been sustained and that appropriate remedial action has been or will be taken. The complainant shall be informed of the nature of such action only in the event that the remedial action may affect the terms and conditions of the complainant's employment. In the event that the allegations of sexual harassment are not sustained, the Decisional Authority responsible for reviewing the Report on Investigation shall notify the complainant and the subject of that fact, after review of that notice by the Office of General Counsel.

M. **Alternative Procedures** - If a Vice President (or person of similar rank) is the subject of a complaint, the President shall be the official to whom the Report of Investigation shall be furnished and who shall take such remedial action as may be appropriate in his or her judgment. If the President, in his individual capacity, is identified as the subject of a complaint, the Chief Human Resources Officer shall notify the General Counsel who, in turn, should recommend a special investigative protocol to the Chairman of the Audit and Legal Committee of the Board of Trustees. Thereafter, such complaint shall be investigated as directed by such Committee.

## VI. SANCTIONS

Engaging in sexual harassment, or failing to carry out responsibilities established by this policy, will give rise to disciplinary action up to and including separation from University, and possible reference for criminal prosecution.

## VII. HYPERLINK

University Policy website: [www.howard.edu/policy](http://www.howard.edu/policy)

Office of Human Resources website: <http://www.hr.howard.edu>

Related policy: [400-005 Howard University Title IX \(Student\) Policy on Prohibited Sexual Harassment and Gender-Based Discrimination in Education Programs and Activities.](#)