

2.1.2 **SEXUAL HARASSMENT**

POLICY STATEMENT

The University of St. Thomas is committed to maintaining the high standards of respect and civility that are both implicit and explicit in its conviction statement. This commitment extends to creating and maintaining a working and learning environment that is free of sexual harassment and that promotes personal dignity and equitable treatment of all members of the University community. Sexual harassment is a breach of that commitment, as well as a form of misconduct that may compromise the integrity of human relationships, can affect employee morale and performance, and can threaten the sense of security and well-being of all individuals. Sexual harassment can undermine the atmosphere of trust and respect that is essential to creating and maintaining a healthy working and learning environment. In recognition of this, the university has adopted a policy designed to investigate and resolve such claims in a direct and thorough manner while respecting the rights of all parties involved.

SECTION I Applicability and Sanctions

This policy applies to all applicants for employment, employees, student employees, and students in both on and off-campus University-sponsored activities. In determining whether the alleged conduct constitutes sexual harassment, the University shall consider the record as a whole and the totality of circumstances, including the nature of the incident and the context in which the alleged incident(s) occurred. Sexually harassing conduct often involves a pattern of offensive behavior, although a single instance of physically threatening or otherwise sexually aggressive or abusive behavior can constitute sexual harassment. Individuals determined to have violated this policy shall be sanctioned, which could include termination or expulsion.

The University also prohibits acts of sexual violence. Employees and students who believe they have been victims of sexual violence are urged to consult the University's Sexual Violence Policy.

SECTION II Definitions

- A. *Academic and Administrative Leaders:* The two Executive Vice Presidents, Deans, Vice Presidents, and other direct reports of the two Executive Vice Presidents.

- B. *Complainant:* A person who is subject to alleged sexual harassment.

- C. *Respondent:* An individual whose alleged conduct is the subject of a complaint.

- D. *Sexual Harassment:* A form of illegal sex discrimination that violates Title VII of the Civil Rights Act of 1964. The definition of sexual harassment used by the University of St. Thomas is the same as that formulated and published by the federal Equal Employment Opportunity Commission (EEOC). That definition defines sexual harassment as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

- (1) Submission to such conduct is an explicit or implicit condition of employment, or
- (2) Submission to or rejection of such conduct is used as the basis for an employment decision, or
- (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

This form of harassment may involve the behavior of a person of either sex against a person of the opposite or same sex. The use of a position of authority as a way to accomplish any of the above may also constitute sexual harassment. The subjective belief of an employee or student that the behavior is offensive does not in itself constitute sexual harassment.

Examples of sexual harassment include but are not limited to

- Pervasive displays of pictures, calendars, cartoons, or other materials with sexually explicit or sexually graphic content in a workplace or academic environment
- An offer for some "benefit," a grade, or a bonus in exchange for sexual favors
- Suggestions or threats that refusal of sexual favors might result in "negative" consequences or hinder one's academic career or professional standing
- Constant unwelcome efforts to change a casual friendship or professional relationship into a romantic one
- Unwelcome, persistent, and offensive sexually-oriented jokes and comments
- Unwanted physical contact such as touching, patting or pinching

SECTION III Consensual Relationships

Decisions concerning grades, degrees, promotions, performance evaluations, merit increases, or awards of any kind must be made free of bias or favor. The integrity of management decisions is suspect when made by individuals who have a romantic or sexual relationship with persons who benefit from those decisions. Even the mere appearance of bias can seriously disrupt the academic or work environment for faculty, staff, and/or students.

Because of the potential for abuse, appearance of bias, and the inherent power differential, certain consenting romantic or sexual relationships are expressly prohibited at the University of St. Thomas. This prohibition applies to romantic or sexual relationship between a(n)

- (1) Faculty member (including an adjunct, instructor, or teaching assistant) and his or her student whom the faculty member teaches, advises, or serves on the student's thesis, dissertation, or scholarship awards committee
- (2) Faculty member (including an adjunct, instructor, or teaching assistant) and any student enrolled in a degree program in the faculty member's department
- (3) Administrator and student over whom the administrator has an evaluative, decision-making responsibility, or coaches or counsels the student
- (4) Supervisor and employee for whom the supervisor has decision-making responsibility for personnel matters.

SECTION IV No Retaliation

The University is committed to protecting the rights of both the complainant and respondent. No employee or student shall be reprimanded or retaliated against for initiating an inquiry, filing a complaint in good faith, or participating in an investigation related to a claim of sexual harassment. Any conduct constituting retaliation or reprisal is a violation of this policy, which is subject to disciplinary action up to and including dismissal. The University may impose sanctions if it determines that an employee or student knowingly initiated in bad faith a claim of sexual harassment, knowingly provided false information, or intentionally misled a University representative during an investigation of this or a related complaint.

SECTION V Resolution Process

The intent of the resolution process is to assure that sexual harassment complaints are investigated and resolved promptly, that complainants have access to a common source of expert advice, and that reliable data may be gathered on incidents of sexual harassment.

A. Resolving sexual harassment complaints

Sexual harassment complaints are likely resolved if addressed early. The University urges any employee or student who believes he or she has been the recipient of sexual harassment to report the incident immediately. Resolving these types of matters requires, at a minimum, that the complainant is no longer being harassed and that there is no retaliation or reprisal from the respondent. Employees and students may seek redress using several options.

1.1 Informal Process

Complainant's Actions

Although not required, employees and students are encouraged to inform the respondent either through verbal or written communication that the behavior is unwelcome and must cease immediately.

Alternatively, employees may contact their respective Human Resources (HR) Partner with questions, concerns, or to report an incident of sexual harassment. The HR Partner who receives such information shall advise the complainant about the University's resolution process for dealing with issues of sexual harassment and will help him or her pursue an effective course of action.

If the complainant is uncomfortable using this approach or this course of action is unsuccessful, and/or the unwelcome behavior continues, an employee may file a written complaint with the Associate Vice President for Human Resources or his or her designee or the University Affirmative Action Officer. Either individual will assess the situation and determine, in consultation with the complainant, the appropriate course of action. Students may file a complaint with the Dean of Students in the Division of Student Affairs. It is the responsibility of the individual contacted to report the complaint to the Associate

Vice President for Human Resources, the University Affirmative Action Officer, or, in instances where the respondent is a student, the Dean of Students in the Division of Student Affairs.

Supervisor's Actions

Supervisors, department chairs, and managers are legally required to take prompt action after becoming aware of an incident of sexual harassment whether through observation or as the recipient of a sexual harassment complaint. Minimally, this means offering the complainant assistance and promptly reporting the incident to the Associate Vice President for Human Resources, the University Affirmative Action Officer, or the Dean of Students. The university representative who receives the complaint will determine, in consultation with the complainant and based on the circumstances, the appropriate course of action.

1.2 Formal Process

If a complaint is not resolved through the informal process, the complainant shall file a formal complaint by submitting it in writing. Use of the informal process is not a prerequisite for initiating a formal complaint.

A. *Written Complaints*

Complainants shall submit to the investigating officer a signed written complaint, which clearly describes the incident(s) of sexual harassment including the name of the respondent. The investigating officer shall investigate the complaint promptly interviewing the complainant and respondent, as well as other relevant parties. The respondent is furnished a summary of the complaint by the investigating officer and provided an opportunity to respond. Two levels of management above the respondent shall be notified that an investigation is underway with one level of management being the appropriate academic and administrative leader.

i Formal Process: Investigation

Complaints of sexual harassment will be investigated promptly. The Associate Vice President for Human Resources, or his or her designee, or the University Affirmative Action Officer serves as the investigating officer for complaints where the respondent is faculty or staff. The Dean of Students in the Division of Student Affairs or his or her designee shall serve as the investigating officer when the respondent is a student. In the event that a person holds dual status of student and employee, the Dean of Students will work in collaboration with the Department of Human Resources to take prompt and appropriate action.

If the respondent is an employee, after concluding the investigation, the investigating officer furnishes a copy of the investigative report to the appropriate academic and administrative leader outlining the findings and, if applicable, any recommended disciplinary or corrective action. Both the respondent and complainant receive a copy. The appropriate academic and administrative leader, in consultation with the Associate Vice President for Human Resources, shall decide the proper course of action based on the information contained within the investigative report and university policy. In the event the respondent is an academic and administrative leader, the appropriate Executive Vice President or, when applicable, the President shall receive the investigative report and make a determination.

If the respondent is a student, after concluding the investigation, the investigating officer furnishes a copy of the investigative report to the Vice President for Student Affairs outlining the findings and, if applicable and recommended disciplinary or corrective action. The Vice President for Student Affairs

shall decide the proper course of action based on the information contained within the investigative report and university policy.

Disciplinary or corrective action, if applicable, will not take effect until the time period expires for requesting a formal hearing, which is discussed in Section 1.2(ii) below. In the case of an employee, disciplinary or corrective action may include but shall not be limited to a(n) oral or written warning, reassignment, demotion, or termination of employment. For students, sanction may include suspension or termination of their student status. However, the University may take interim action depending on the nature of the complaint and the circumstances involved.

ii Formal Hearing

The complainant or the respondent may request a formal hearing if either party believes the resolution process was biased or not followed. A written request for a hearing must be submitted to the Associate Vice President for Human Resources within 15 working days following receipt of the decision rendered in Provision 1.2(i) above.

The appropriate Executive Vice President shall appoint a four-person hearing panel to hear the complaint and appoints the hearing panel chairperson. The panel reviews all previous findings and the disciplinary action, if any, the investigating officer recommended. Moreover, the panel shall also hear the case and accept and obtain evidence, testimony, and argument(s), as appropriate, concerning allegations of sexual harassment.

After reviewing the fact-finding report and based on the preponderance of the evidence, the hearing panel provides the appropriate Executive Vice President a written recommendation. That recommendation shall 1) affirm the original decision and sanction, if any; 2) affirm the original decision and reduce or increase the original sanction; or 3) reverse the original decision and, if necessary, recommend sanction. Within 20 working days following receipt of the hearing panel's findings and recommendations, the appropriate Executive Vice President, in consultation with the Associate Vice President for Human Resources, informs the complainant and the respondent in writing of the final disposition of the complaint. If a complaint of sexual harassment is substantiated, appropriate corrective action is implemented at that time.

The hearing panel shall follow the University's General Grievance Hearing Procedures developed for this process. A copy of these procedures is available on the Human Resources Department Web site or may be obtained directly from the University Affirmative Action Officer or the Associate Vice President for Human Resources.

SECTION VI Confidentiality

The University will strive to protect, to the greatest extent possible, the confidentiality of persons reporting or accused of harassment. Because the University has an obligation to address sexual harassment, the University cannot guarantee complete confidentiality where it would conflict with the University's obligation to meaningfully investigate or, where warranted, take corrective action. Even when some disclosure of the University's information or sources is necessary, it will be limited to the extent possible.

All persons involved in the investigation are expected to protect the confidentiality of the process and not to disseminate information about the complaint or the investigation that would cause harm to others.

Complainants and respondents, especially, have an obligation to respect the privacy and confidentiality of the other person and must not disseminate information about the complaint or the investigation with the intent of harming the other person.”

SECTION VII Policy Dissemination and Training

As part of the University's commitment to maintaining a working and learning environment free of sexual harassment, it shall disseminate this policy broadly to the University community through publications, websites, new employee orientation, new student orientation, and other appropriate communication channels. The Department of Human Resources and Division of Student Affairs shall make educational materials available to all members of the University community in order to promote compliance with this policy and familiarity with reporting procedures.

Moreover, the University has designated certain employees to be responsible for reporting incidents of sexual harassment. Generally, these individuals include academic and administrative leaders, supervisors, managers, and other University employees holding a position of authority. The University also conducts training programs on a regular basis to inform employees and students about sexual harassment and the ways to protect against and respond to it.

SECTION VIII Accountability

- 1** The Executive Vice Presidents are responsible for assuring the uniform and consistent application of this policy and for rendering a decision on the findings and recommendations of the Hearing panel.
- 2** The Associate Vice President for Human Resources, University Affirmative Action Officer, Vice President for Student Affairs, and the Dean of Students are responsible for the uniform and consistent application of this policy and for investigating complaints in a timely and confidential manner.
- 3** It is the responsibility of academic and administrative leaders and other managers and supervisors to take whatever appropriate action is necessary to prevent sexual harassment and to address and report such prohibited conduct when and where it occurs. This responsibility involves assuring that employees and students are informed about the policy and their responsibility to contact the appropriate University officials when informed of or observe an incident of sexual harassment.
- 4** Employees and students are responsible for maintaining a working and learning environment that is free of sexual harassment.