

POLICY AND PROCEDURE STATEMENT ON THE ISSUE
OF DISCRIMINATION/SEXUAL HARASSMENT

BACKGROUND

Sexual harassment is considered a form of discrimination on the basis of gender. Students' rights against this and other forms of discrimination are insured by Title VII of the Civil Rights Act of 1964 administered by the Equal Employment Opportunity Commission (E.E.O.C.) and Title IX of the 1972 Education Amendment administered by the Office for Civil Rights.

The AAUP in 1966 and 1983 specified that any type of exploitation of students violates the ethical responsibility of faculty and precludes the exercise of academic freedom by all members of the college community (Academe, 1983).

Sexual harassment has been a pervasive problem in all types of organizational settings. The percentage of individuals, both male and female who report some form of sexual harassment at work ranges from 50% to 60% (Meyer et al, 1981). Over 40% of women employed by the Federal Government have experienced harassment of a sexual nature (Neville, 1991). Data collected from surveys of college students from universities across the country report that from 20 to 30% of female students were harassed by male faculty (Dzeich & Weiner, 1984).

It is in the best interest of the College to heed the guidelines of the EEOC (1980), American Council on Education (O, 1984) and AAUP (1983), in order to prevent or curtail sexual harassment of students, protect the integrity of the institution and offer a credible defense in potential litigation. These guidelines are in agreement in recommending that the university do all of the following:

- 1) Train and otherwise sensitize employees to the issues and behavior constituting sexual harassment. It is recommended that College officials immediately issue a statement condemning such harassment.
- 2) Define sexual harassment so that instances of it are identifiable.
- 3) Develop and distribute a written policy.
- 4) Formulate a mechanism for complaints.
- 5) Communicate the policy and complaint procedure to all members of the college community.

This document addresses each of these points. The faculty is urged to discuss and accept a policy and procedure as soon as possible as required by law. It is strongly recommended that a mission statement, policy announcement and complaint procedure be

distributed to the faculty as well as all members of the college community.

STATEMENT OF POLICY

The mission of S.U.N.Y. at Old Westbury is human justice through the creation and transmission of knowledge. Such knowledge is cultivated through the exercise of academic freedom. Harassment of any type restricts the academic freedom of the student and diminishes the educational and personal growth that flourishes in an environment of academic freedom.

It is the opinion of this university that the faculty as members of an academic community and officers of the State of New York, carry the responsibility to conduct themselves in a manner that is above reproach. Sexual harassment threatens academic values and fair evaluation of the performance of students. It also interferes with the delivery of educational "services" to which each student is ethically and legally entitled.

The faculty should understand their position as role models and powerholders, with influence over the activities and decisions crucial to the life of students. As such, conduct of a sexual nature between faculty and students is prohibited. The burden of correct behavior and restraint lies with each faculty member regardless of the actions and intentions of the student.

DEFINITIONS

The EEOC defines sexual harassment as "unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature." In a college environment, this would include instances when the compliance or rejection of such conduct involves the following:

- 1) Sexual conduct is explicitly or implicitly a term of condition for the acceptance or rejection of the student into any university-related activities, including but not limited to a program of study, class, independent study project, and teaching or nonteaching employment on campus.

- 2) Such conduct is the basis of employment or academic evaluation such as a grade, financial aid, approval for graduation, suitability for graduate work, external and internal letters and/or verbal recommendation for employment, fellowships, etc.

- 3) The creation of an intimidating, offensive "hostile environment" for the student inside or outside the classroom or anywhere on campus.

Such conduct consists of and is not limited to the following actions:

- verbal harassment or abuse
- subtle pressure for sexual activity
- remarks about clothing, body or sexual activity
- unnecessary touching, patting, pinching, leering
- or ogling at a student's body
- constant brushing against another's body
- demanding sexual favors in exchange or relation
- to grades, letters of recommendation, etc.
- physical assault (Dzeich & Weiner, 1984)

It should be noted that the court has found the creation of a hostile environment may exist although seemingly consensual sexual activity took place (Meritor Sav. Bank, FSB v. Vinson, 1986).

Sex discrimination operates against those qualified students who were denied "opportunity or benefit" in favor of another student who gained such opportunities by complying with requests for conduct of a sexual nature.

Rationale

It is not the intent of this policy to disrespect the faculty. However, it is the moral obligation of the college to respect and protect the potential of its students. According to Title VII, an employer is responsible for the acts of its agents when they transgress specific policies. The university is responsible as such if it "knows or should have known" of any instances of harassment. The university is liable for the occurrence and effects of such conduct.

In addition to the preservation of its academic integrity, the university may limit its liability for the behavior of its "agents" by offering a specific written policy against sexual harassment for the purpose of preventing such conduct. Liability is also likely to be reduced if the university informs students of their rights, formulates a grievance procedure for the aggrieved student to use, provides for a timely investigation, and takes corrective and compensatory action (Ledvinka & Scarpello, 1991).

Definition of Agents

This policy is intended to cover all agents of the university who are directly involved in a teaching position including full-time term, temporary and part-time appointees, adjunct faculty, teaching assistants, tutors, graduate assistants, laboratory instructors as well as all those otherwise concerned with the

instruction or control of students regardless of their payroll status. Also included are faculty who serve as academic or research advisors.

Definition of Students

A student is someone currently enrolled full-time or part-time in one or more classes, independent study projects or is completing work towards the resolution of an incomplete grade. A student who takes a leave of absence and intends to return should also be considered a student for the purposes of this policy.

SPECIFIC POLICY STATEMENT ON SEXUAL HARASSMENT

The verbal, nonverbal and/or written communication between instructor and student should not include any of the conduct described above. Simply, students are not available for any type of contact or relationship of a sexual nature. The faculty member as the powerholder in the teaching relationship has the responsibility to maintain proper standards of decorum befitting a member of the university.

In cases where a consensual sexual relationship develops between a student and an instructor for example, after the student graduates and before s/he returns for post-graduate work, the faculty member should not take part in any activity that involves evaluation of the student's academic career once the student's status is activated.

GRIEVANCE PROCEDURE

The University is obligated to provide a complaint procedure "free from fear of retribution" through which students who believe they have been victimized by sexual harassment can seek relief and redress. The confidentiality of this procedure and protection of the student is essential to encourage the report of this type of abuse.

Procedure

Step 1 (This step was developed in consultation with a group of twenty students enrolled in a Human Resource Management class.)

Within ten (10) working days of the alleged occurrence of harassment, the student should consult a student counselor to file a written complaint with the Chair of the Faculty Personnel Matters Committee, who is the designated person to handle this type of charge. The complaint should contain information concerning the time, date, location, the nature of the sexual harassment and the names of any witnesses to the incident.

Step 2

The Chair of the Faculty Personnel Matters Committee will form a Hearing Committee composed of him/herself as well as one representative each from Faculty Council, Student Government, the Office of Student Affairs and the UUP. In addition, the Affirmative Action Officer of the College will serve as an ex officio member of the Hearing Committee. The Hearing Committee will hold a hearing to review the nature of the written complaint, interview the aggrieved student and any witnesses and examine any other evidence. The interview with the student and witnesses will be tape recorded and this tape will become the property of the University. All this is to be accomplished within ten (10) working days after the receipt of the complaint by the Chair.

If the complaint is found to be without substance and no further action is called for, the student will be notified of such in writing.

Step 3

However, if the student has a grievable complaint, the Hearing Committee, while protecting the anonymity of the student, will notify the faculty member that a charge has been filed against him/her. Information regarding the circumstances of the alleged abuse will be provided before the faculty member is interviewed by the Committee. That interview will also be tape recorded. If so desired, the faculty member may provide a written response, present any evidence and bring any witnesses to the interview.

Step 4

The Hearing Committee will review all evidence presented during the hearings and provide a written report of its findings to the complainant and faculty member within ten working days. This report will include recommendations for appropriate action.

Note

The student should be advised of the procedures for filing a formal complaint with the New York State Office of Civil Rights and/or the E.E.O.C. within 180 days from the incident of harassment.

If the allegations are found to be without merit, no mention of the charges are to be placed in the faculty member's personnel file. However, the records will be kept on file in the event that the same faculty member is similarly charged at some point in the future. This is important to determine whether patterns of inappropriate behavior exist and serves to defend the University when complaints are filed with external agencies.

References

- Academe (March-April 1983). Suggested policy and procedures for handling complaints, p. 15a-16a.
- Bennett-Alexander, D. (June 1988) Sexual harassment in the office. Personnel Administrator, p. 174-184.
- Connolly, W.B. Jr., & Marshall, A.B. (1989) Sexual harassment of university or college students by faculty members. Vol. 15 (4), p. 381-403.
- Dzeich, B.W. & Weiner, L. The Lecherous Professor (1984), Boston: Beacon Press.
- Federal Register. Part IV. Equal Employment Opportunity Commission Final Amendment to Guidelines on Discrimination because of Sex. Monday, November 10. 1980.
- Ledvinka, J. & Scarpello, V. Federal Regulation of Personnel and Human Resource Management. 2nd ed. Boston: PWS-Kent Publishing Company.
- Meyer, M., Oestriech, J., Collins, F.J., Berchtold, I. Sexual Harassment (1981) New York: Petrocelli Books, Inc.
- McCalla, R.K. (1991) Stopping sexual harassment before it begins. Management Review, April, p. 44-46.
- Neville, K. (1990) Corporate Attractions Reston, Va: Acropolis Books, Ltd.
- O (1984) anonymous reference cited in Dzeich & Weiner.

POLICY STATEMENT

Harassment on the basis of sex is a form of sexual discrimination and violates Title VII of the Civil Rights Act of 1964 and of Title IX of the Educational Amendments of 1972. The State University of New York, College at Old Westbury, reaffirms the principle that students, faculty, and staff have the right to be free from sex discrimination in the form of sexual harassment inflicted by any member of the campus community. This community includes, but is not limited to, employees, students, visitors and vendors associated with Old Westbury.

Unwelcome sexual advances or request for sexual favors, and verbal or physical conduct of an abusive, sexual nature, constitute sexual harassment when such conduct interferes with an individual's work or academic performance or creates an intimidating, hostile or offensive work or academic environment.

SUNY Old Westbury is committed to maintaining a workplace and a learning environment free of sexual harassment and intimidation. Sexual harassment is unacceptable behavior, unlawful and intolerable. Any member of the College community found guilty of sexual harassment will be subject to appropriate disciplinary action which may include discharge or expulsion.

WHAT IS SEXUAL HARASSMENT?

Sexual harassment takes many forms, from constant joking to physical assault. It may involve threats that you will fail in class or that you will lose your job. It may make your work, study or living environment uncomfortable through continued sexual comments, pressures or suggestions. Some examples of sexual harassment include:

- o verbal harassment or abuse
- o unnecessary touching, patting, pinching, or constant brushing against a person's body
- o physical assault
- o whistling, catcalls or sexual remarks or jokes
- o subtle pressure for sexual activities
- o demands for sexual favors accompanied by implied or over threats
- o leering at a person's body

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

o submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment status or academic standing;

o submission to such conduct is made either an explicit or implicit term or condition of an individual's employment or admission to an academic program; or

o such conduct has the purpose or effect of substantially interfering with an individuals' performance on the job or in the classroom, or creating an intimidating, hostile or offensive work or study environment.

WHO ARE THE VICTIMS?

The victims of sexual harassment most often find themselves bothered by persons who exert some power over them, either in their academic program or on the job. This includes the harassment of students by faculty or administrators of employees by supervisors.

Sometimes, however, supervisors may be harassed by employees, faculty by students, staff by co-workers or students by fellow students. These forms of sexual harassment are also unlawful and a violation of community standards.

Although the majority of incidents of sexual harassment involve a man harassing a woman, the law also covers women harassing men, women harassing women, and men harassing men.

YOU CAN HELP PREVENT SEXUAL HARASSMENT

- o Report any instances of sexual harassment
- o Offer support to those you know are having harassment problems
- o Encourage them to take action
- o Offer yourself as a witness if you observe an instance of sexual harassment
- o Share the information in this brochure with others

WHAT CAN I DO?

If you feel you are being sexually harassed:

1. It is important to say that the harassment is unwelcome and that you want it to stop at once. Say it firmly, without apologizing, without smiling. Ignoring the situation will seldom make it go away.
2. Keep a record of what occurred. Include direct quotes, witnesses, and patterns to the harassment. Save any form of

written communication sent to you, however innocuous they may seem.

3. Take action!

- Call the Counseling Center (876-3053) or any of the volunteer facilitators listed in this brochure to discuss your concerns. You have a right to be heard, and the use of the grievance procedure is strongly encouraged for anyone who believes he/she has been a victim of sexual harassment.

- Talk to the person involved, if you feel that you can. Tell the harasser that you object to the behavior and will not tolerate it. You might explain why you were offended by what transpired. Remember that you have a right to your feelings. You may want someone to witness this conversation.

- Write a letter to the harasser, especially if you feel that a direct confrontation is not possible or hasn't worked. Describe the things that offend or upset you. Keep a copy of this letter.

- If the situation is physically threatening or intimidating, Public Safety should be contacted.

There are time limits for filing complaints. Explore your options and protect your rights by making sure that you notify one of the trained professionals listed on the back of this brochure.

The SUNY Old Westbury Personal Safety Committee, an all-college committee, is the appropriate body to receive complaints of sexual harassment. The committee is charged with the recommendation of procedures pertinent to charges of alleged sexual harassment, and recommendations to the President on all safety matters.

TO WHOM CAN YOU TALK?

Susan Brady
Counseling
Campus Center
876-3053

Phyllis French
Asst. to VP for Student Affairs
Campus Center
876-3080

Dora Ierides
Health & Physical Education
Clark Center
876-3241

Larry Newbree
Residential Life
Building 12
876-3210

Pat McKeegan
Psychology
Academic Village
876-3198

Yvonne Neal
Public Safety
Academic Village
876-3333

Jonni Urquhart
Counseling
Campus Center
876-3053

Myrna de Cuba
DEPC
Building 10
876-3326

Mary Lynn Williamson
Asst. VP for Student Affairs
Campus Center
876-3175

Blanca Ligor
Counseling
Campus Center
876-3053

Mike Arons
Personnel
Campus Center
876-3179

Josephine Maizonet
EOP
Campus Center
876-3068

Lisa Whitten
Psychology
Academic Village
876-3198

Bill Nocera
Student Activities
Campus Center
876-3067

Joan Prenderville
Student Health Services
Building 7
876-3250