



## TEXAS TECH UNIVERSITY™

### Operating Policy and Procedure

#### **OP 10.09: Sexual Harassment**

**DATE:** March 14, 2008

**PURPOSE:** The purpose of this Operating Policy/Procedure (OP) is to establish a university policy prohibiting sexual harassment and establishing procedures for processing sexual harassment complaints.

**REVIEW:** This OP will be reviewed in February of even-numbered years by the managing director of the Office of Equal Employment Opportunity (EEO), the senior vice provost, and the vice president for student affairs with recommended revisions forwarded through administrative channels to the president by March 15.

#### **POLICY/PROCEDURE**

##### **1. Policy**

###### **a. Objective**

The objective of the university is to provide a positive and respectful environment in which faculty, staff, and students may pursue their careers and studies with a maximum of productivity. Behavior or conduct that interferes with this goal will not be tolerated.

###### **b. Policy Statement**

It is the policy of the university to maintain a work place and a learning environment free of sexual harassment and intimidation. **Sexual harassment is unlawful.**

###### **c. Legal Basis**

Harassment of students on the basis of sex is a violation of §106.31 of Title IX of the Education Amendments of 1972.

Harassment of TTU employees on the basis of sex is a violation of §703 of Title VII of the Civil Rights Act of 1964, §39.03 of the Texas Penal Code, as stipulated in House Bill 370 passed in the 71st Legislative Session, and the Texas Commission on Human Rights Act of 1983.

###### **d. Definition**

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

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, participation in a university-sponsored educational program or activity, or in return for a grade or other consideration;
- (2) Submission to or rejection of such conduct by an individual is used as the basis for an academic or employment decision affecting such individual; or
- (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or of creating an intimidating, hostile, or offensive working or educational environment.

Examples of inappropriate behavior often cited in sexual harassment complaints include, but are not limited to, the following: sexual teasing, jokes, remarks, or questions; sexual looks and gestures; sexual innuendoes or stories; sexual favoritism; pressure for dates or sexual favors; gifts, letters, calls, e-mails, or materials of a sexual nature; unwelcome physical contact (touching, patting, stroking, rubbing); sexually explicit visual material (calendars, posters, cards, software, internet materials); catcalls or whistling in a demeaning manner with sexual overtones; and/or inappropriate comments about dress or physical appearance.

e. Sexual Harassment Prevention Training

Pursuant to state legislation, all new benefits eligible faculty and staff and insurance eligible graduate students must attend non-discrimination training within the first 30 days of employment and receive supplemental training every two years. This training includes Sexual Harassment Prevention Training. Employees are required to sign a statement that verifies attendance to this training. Signed attendance statements will be recorded in the employee's personnel file.

f. Dissemination of Sexual Harassment Information

Employees and students are informed of the sexual harassment policy through new employee orientations, compliance EEO training sessions, the distribution of sexual harassment pamphlets, and the placement of sexual harassment prevention posters at various locations throughout the campus. Information about the Texas Tech sexual harassment policy can also be obtained from the Personnel Office or the Texas Tech System's EEO Office, and can be found in the *Student Handbook*, which is available online at [www.studentaffairs.ttu.edu](http://www.studentaffairs.ttu.edu).

g. Non-retaliation

Retaliation is strictly prohibited against a person who files a complaint of sexual harassment in good faith, opposes a charge or testifies, or assists or participates in an investigative proceeding or hearing.

h. Confidentiality

Confidentiality of both complainant and accused will be honored to such extent as is possible without compromising the university's commitment to investigate allegations of sexual harassment. The willful and unnecessary disclosure of confidential information by anyone, including the alleged victim, regarding a sexual harassment complaint to any person outside of the investigation process may result in appropriate disciplinary measures against the offending party.

## 2. Complaint Procedures

### a. Students

- (1) Sexual harassment complaints must be filed within 180 days after the alleged incident occurs. (Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972)
- (2) Students who believe they are the targets of sexual harassment in the academic environment by faculty, staff, or other students should file their complaint with the Dean of Students Office. If the complaint involves personnel in the Dean of Students Office, the complaint should be filed with the EEO office.
- (3) Students complaining of sexual harassment in their employment capacity should proceed directly to the EEO office as provided in section 2.b of this policy.
- (4) When a signed complaint is filed, an investigation will be conducted by either the Dean of Students Office staff or the EEO office. Investigation of a complaint of sexual harassment will include, but not be limited to, conferring with the complainant, the accused, and the supervisor of the accused, and may also involve examination of relevant documentation and interviews with other pertinent individuals. The provost/senior vice president for academic affairs and the vice president for student affairs will be notified of the complaint.
- (5) The investigation will be conducted as thoroughly and expeditiously as possible, and the results will be reported to the complainant, the accused, the vice president for student affairs, and, if appropriate, the provost/senior vice president for academic affairs. At the conclusion of the investigation, the complainant and the accused will be notified. The written notification will be delivered by hand or certified mail, return receipt requested, or by any other method requested by either party. If sufficient evidence exists to bring an allegation against a student, disciplinary charges will be brought against the student at the conclusion of the investigation.
- (6) In the event a complaint is filed against a member of the administration, the next senior level administrator shall be notified of the complaint by the EEO office. In such an event, that administrator shall also be responsible for any disciplinary or corrective action required as a result of the investigation, and shall be the first level administrator for any appeal filed.
- (7) In the event the charge of sexual harassment is upheld, the accused will be subject to disciplinary action, as determined by the appropriate administrator.
- (8) An appeal by either party will be directed to the appropriate vice president or the provost/senior vice president for academic affairs. Appeals must be made in writing and filed within ten working days of the parties being notified of the finding. The resolution of the appeal will rest with the vice president for student affairs, in accordance with the *Student Handbook*, and his/her ruling will be the final ruling on the matter with regard to student discipline.

## b. Faculty and Staff

- (1) Sexual harassment complaints must be filed within 180 days after the most recent incident occurs. (Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972)
- (2) Employees who believe they are being sexually harassed but are unsure about filing a formal complaint are encouraged to discuss the situation with a representative of the EEO office.
- (3) When a signed complaint is filed in the EEO office, an investigation will be conducted by that office. The vice president of the appropriate administrative division or the provost/senior vice president for academic affairs will be notified of the complaint.
- (4) Investigation procedures of a complaint are at the discretion of the EEO office. Investigation of a complaint of sexual harassment may include conferring with the complainant, the accused, and the supervisor of the accused, and may also involve examination of relevant documentation and interviews with other pertinent individuals.
- (5) The investigation will be conducted as thoroughly and expeditiously as possible. At the conclusion of the investigation, the complainant and the accused will be notified. The written notification will be delivered by hand or certified mail, return receipt requested, or by any other method requested by either party. The outcome of the investigation will be reported to the appropriate university administrator.
- (6) The appropriate university administrator, after reviewing the findings of the EEO office, will proceed toward resolution of the complaint.
- (7) In the event a complaint is filed against a member of the administration, the next senior administrator shall be notified by the EEO office of the complaint. In such events, that administrator shall also be responsible for any disciplinary or corrective action required as a result of the investigation.
- (8) In the event a finding of sexual harassment is made, appropriate disciplinary action will be taken as determined by the appropriate administrator. Disciplinary action may range from counseling up to and including termination.
- (9) Either party may, within ten working days, choose to appeal in writing the finding of the EEO office or any disciplinary action proposed by the appropriate university administrator through the procedures established for faculty, OP 32.05, sections 3, 4, and 5, and for staff, OP 70.10, sections 2.b.(2) through 2.b.(5).
- (10) Follow-up: If the investigation supported the allegation of sexual harassment, a follow-up will be made by the EEO Office no later than 60 days after an investigation has been completed and the findings have been reported in writing to the appropriate university administrator. The follow-up will involve the following:
  - (a) Contact the appropriate university administrator to determine whether appropriate disciplinary action or other corrective action has been taken, as necessary. Confirmation of appropriate disciplinary or corrective action can also be acknowledged via copy of a PAF, resignation letter, termination documents, etc.

- (b) Contact the complaining party to verify that no further sexual harassment, discourteous conduct, or retaliation by any person has occurred. The complaining party should be asked to describe with sufficient detail any incidents that the complaining party alleges to have occurred after the original allegations were filed.

3. **Right to Change Policy**

Texas Tech University reserves the right to interpret, amend, or rescind this policy, in whole or in part, at any time.

*Attachment: Complaint of Sexual Harassment*

---