

Sexual Harassment and Complaint Procedures

EFFECTIVE: January 2021

I. Purpose

The purpose of this policy is to set forth the Foundation procedures for preventing sexual harassment and for investigating and resolving allegations of sexual harassment, and also to ensure compliance with Title VII of the Civil Rights Act of 1964.

II. Scope

This policy applies to all applicants for employment and to all officers and employees of the Foundation and all persons who serve the Foundation as its agents and are under the control of the Foundation, and to all individuals who teach, conduct business or participate in activities at the Foundation. Foundation contractors are also subject to this policy.

III. Policy

A. Introduction

Sexual harassment and discrimination are illegal and endanger the environment of civility and mutual respect that must prevail if the Foundation is to fulfill its mission. The Foundation is committed to providing and promoting an atmosphere in which employees can realize their maximum potential in the workplace and can engage fully in the learning process. Toward this end, all members of the Foundation community must understand that sexual harassment, sexual discrimination and sexual exploitation of professional relationships violate the Foundation policy and will not be tolerated. The Foundation will take every step to resolve grievances promptly. Any act of reprisal, interference, or any other form of retaliation, whether direct or indirect, against an individual for raising concerns covered by this policy are also violations of this policy and are prohibited.

B. Sexual Harassment Definitions (See Title 29 Code of Federal Regulations 1604.11)

Two categories of sexual harassment between members of the opposite or same sex are recognized:

1. **Quid Pro Quo** - Sexual harassment presented as a “bargain” (quid pro quo – ‘something in exchange’). Unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature by one in a superior position constitutes “bargained-for sexual harassment” when submission by another is made either an

explicit or implicit term or condition of employment or of academic standing. In this case, apparent consent of the submitting party is less relevant than the extent to which the sexual conduct is unwelcome. As defined here, “bargained-for sexual harassment” normally arises in the context of an authority relationship. This relationship may be direct as in the case of a supervisor and subordinate or it may be indirect when the harasser has the power to direct others who have authority over the victim.

2. Environmental Sexual Harassment – Unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitute “environmental sexual harassment” when such conduct has the purpose or effect of creating an intimidating, hostile or offensive environment which unreasonably interferes with another’s work or privacy. Environmental harassment can inflict emotional and psychological harm on individuals and can make relationships and the work or study environment unpleasant, threatening and unproductive. However, there is no requirement that evidence of actual emotional or physiological harm be shown in order for environmental sexual harassment to be found to have occurred.

In determining whether alleged conduct constitutes sexual harassment as defined in the policy, the record as a whole will be considered as well as the context in which the conduct occurred. “Environmental sexual harassment” normally arises from a repeated or pervasive course of conduct, whereas “bargained-for sexual harassment” can be based on a single act.

Facts will be judged on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular susceptibility of an individual, unless that susceptibility is known to the alleged harasser.

C. Penalties

Penalties will be determined on the basis of the facts of each case and the extent of harm to the Foundation interests, as well as any Foundation record indicating previous wrong doing by the accused person. There is a zero tolerance policy with respect to this and violators will be terminated.

D. Anti-Retaliation Assurance

This policy seeks to encourage individuals to express freely, responsibly, and in an orderly way, opinions and feelings about any problem or complaint of sexual harassment. Any act of retaliation against a complainant or witness is prohibited and will result in appropriate disciplinary action in accordance with disciplinary measures defined by applicable state or Foundation disciplinary policies.

E. Improper Complaints

This policy shall not be used to bring frivolous or malicious complaints against or employees. A person who brings a complaint that is later found to be frivolous or malicious will be subject to disciplinary action.

F. Confidentiality

Information generated in the course of informal reviews and formal investigations necessary to enforcing this policy will be given the full extent of confidentiality accorded by law to employee personnel records and student educational records. Any person who, without authorization, reveals such information will be subject to disciplinary action. The sharing of the content of complaints will be on a “need to know” basis, as determined in consultation with legal, and may depend on the type of review and response required by the complaint. In any case, when a complaint is being mediated or investigated, the person accused will be informed of the specific details of the complaint, as well as the prohibition against retaliation.

G. Responsibility for Reporting

Any Foundation employee who has direct knowledge of sexual harassment that has occurred is obligated to inform the General Counsel immediately. To not do so may result in serious consequences for the Foundation, may be considered a breach of responsibility and may be grounds for disciplinary action.

H. Education and Outreach

To aid the Foundation in achieving its mission by preventing sexual harassment, the Sexual Harassment Advisory Committee will assist the General Counsel and other Foundation officials in their efforts to train, educate and advise members of the Foundation community about sexual harassment so that the Foundation will continue to be a safe and productive place to work and to learn.

IV. Procedures

The purpose of these procedures is to provide a prompt and fair resolution of problems and to preserve the due process rights of all involved, including the right to receive notice of complaints and to have an opportunity for an impartial investigation. These procedures are also created to provide for discipline of violators of the Foundation Sexual Harassment Policy. If necessary, however, the Foundation administration may take immediate and reasonable action to stop harassment and is not limited to the process provided herein.

A. Filing a Complaint

Complaints of violations of the Foundation's Sexual Harassment Policy will be accepted in writing or verbally, however formal complaints (see Section C below) must be received in written form. Complaints will be taken seriously and investigated. Anyone who has observed sexual harassment should report it to their immediate supervisor, a department head/chair or Executive Director. The ability to make a complaint is not limited to those who are the direct targets of the harassment.

B. Informal Resolution

Complaints of harassment addressed through the informal resolution process may be addressed through a variety of actions, including, but not limited to, the following:

1. The employee may discuss the concern(s) and the desired resolution with the alleged harasser, with or without the facilitation or presence of the General Counsel or a supervisor.
2. The employee may address the alleged harasser in writing regarding the concern(s) and the desired resolution with or without the facilitation or presence of an employee relations representative or a supervisor.
3. The employee may ask an employee relations representative to notify the alleged harasser of the concern(s) and the desired resolution.

If the conduct has not stopped after the complainant's communication or if the complainant does not wish to make the initial contact with the harasser, they may contact the Foundation's General Counsel and/or their own immediate supervisor.

C. Formal Resolution

Employees who have a complaint of harassment may use the formal grievance procedures. To use this procedure, the employee must submit a written complaint to Human Resources and Executive Compensation Committee within 30 calendar days of the alleged harassing action. Employees who do not submit a written complaint to Human Resources within 30 calendar days may still utilize the informal procedures described in Section IV.B. for resolving their concern; however, such individuals will not have the option of later appealing or using any Foundation appeal procedure.

D. Investigation

Confidentiality shall be maintained to the greatest extent possible within the requirements of conducting reasonable investigations. Only those who have a 'need to know' will or may find the identity of the parties.

Once a formal complaint is made to a Foundation official or employee, the official or employee will forward the complaint to the General Counsel. He/she will maintain all records related to such cases separately from the Foundation personnel files. Formal complaints will be investigated promptly and impartially.

The General Counsel may conduct the investigation or, if the Employee Relations Manager deems it appropriate, will forward the complaint to an investigatory team for investigation and recommended action. The team is authorized to review, investigate and advise with respect to the adjustment of complaints related to sexual harassment filed by any member of the Foundation community.

The investigatory team is authorized to meet with the complainant, the accused, and any witnesses in order to determine facts regarding the allegation. Meetings with the parties to the complaint should be conducted individually and should not take the form of a hearing. These meetings may be done by the team as a whole or by members designated by the chair.

An accurate record of all meetings and interviews shall be made by the investigatory team.

All reasonable attempts will be made to complete this entire process in a timely manner. Complaints shall be resolved within sixty (60) days from the date the complaint is received by the Employee Relations Manager.

Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964. Employees or applicants may also choose to file a complaint of sexual harassment with the Equal Employment Opportunity Commission.