

**Colorado State University's Office of Equal
Opportunity implements the
Sexual Harassment Complaint Procedures**



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Sexual Harassment Complaint Procedures

I. Bringing a Complaint

The University can respond to harassment only if it is aware of the harassment. Any member of the University community who believes that he or she has experienced sexual harassment or reprisal shall come forward promptly with inquiries, reports, or complaints and to seek assistance from the Director or Assistant Director of the Office of Equal Opportunity (hereinafter referred to as "OEO").

A. Any member of the University community who believes that he or she has been subjected to sexual harassment ("Complainant") shall contact the OEO, to request advice and information about possible ways to proceed and to put the University on notice. Such discussion will be kept confidential to the full extent permitted by law. Complainants are advised that there are some instances in which the University has a responsibility to act even if the Complainant requests that no action be taken as, for example, where other members of the University community may be at risk. In those cases, the University may investigate and take action on the basis of facts it discovers.

B. To avoid liability to the University and the employee and to correct problems of sexual harassment, it is critical that any employee who believes that he or she has observed an incident of sexual harassment in the University's learning and working environments involving a member of the University community or who receives a report of alleged sexual harassment from an employee or student immediately report this information to the Director or Assistant Director of the OEO or to any vice president.

C. The initial discussion between the Complainant and the Assistant Director of OEO, will be kept confidential to the full extent permitted by law. The claim should be made as promptly as possible after the alleged harassment occurs. Complaints must be filed no later than one hundred eighty (180) days after the last incident considered to be sexual harassment. One consequence of the failure to present a complaint promptly is that it may preclude recourse to legal procedures should the Complainant decide to pursue them at a later date.¹

D. If the Complainant, after the initial meeting decides to proceed with a formal complaint, he or she shall submit a written statement (the "Statement") to the Director or

the Assistant Director of OEO.² The Statement must describe the conduct that is the basis of the complaint, including the name of the alleged offender (hereafter termed the "Respondent"), the date(s), time(s), and location(s) of the conduct, and the names of witnesses. If the Respondent is a student, the Assistant Director of OEO will refer the matter to the Director of Conflict Resolution and Student Conduct Services in the Office of Student Affairs for resolution. (Hereafter, the Assistant Director of OEO and the Director of Conflict Resolution and Student Conduct Services are termed the "Responsible Officer".)

E. The Responsible Officer must promptly inform the Respondent of the allegation and the identity of the Complainant and provide a copy of the written Statement of the Complaint and any related material.

F. Reprisals against an individual who in good faith files a charge of sexual harassment are expressly prohibited and shall be treated as a separate violation of University policy. Intentionally false or malicious charges, however, are grounds for disciplinary action against the Complainant.

II. Resolution of a Complaint *(last revised January 27, 2006)*

The University shall take immediate and appropriate steps reasonably calculated to end any harassment that has occurred, remedy its effects, and prevent harassment from occurring again.

A. Informal Resolution

Informal resolution of a sexual harassment complaint is encouraged whenever possible. The procedure might involve giving advice to the Complainant, the arrangement of a discussion between the Complainant and the Respondent in the presence of the Responsible Officer, or attempted mediation by the Responsible Officer.

Possible outcomes of an informal resolution may include explicit agreements about future conduct, changes in workplace assignments, substitution of one class for another, or other appropriate relief.

B. Formal Resolution

1. Procedures

The applicable procedure for formal resolution of a sexual harassment complaint following submission of a Statement depends upon the Respondent's status as a student, a member of the State Classified staff, a tenured faculty member, an untenured faculty member, an administrative professional, or an other non-student employee.

a. Students

Complaints against students will be handled in accordance with the administrative hearing procedures established in the Office of Conflict Resolution and Student Conduct Services.

Appeals of a decision by the Hearing Officer may be made to the University Discipline Committee, and the decision of that committee is final.

For purposes of this policy, complaints against graduate students arising out of their employment status will follow the procedures specified for untenured faculty, administrative professionals, and other non-student employees (excepting State Classified staff).

b. State Classified Staff

Complaints against State Classified staff, following an objective and impartial preliminary investigation by the Assistant Director of OEO, will be handled in accordance with the procedures in the State Personnel Board Rules. Appeal rights, together with timing limitations, are described in those rules.

c. Academic Faculty, Administrative Professional, and Other Non-Student Employees (excepting State Classified Staff)

Complaints against academic faculty members, administrative professionals, and other non-student employees (excepting State Classified staff) shall be referred to the Assistant Director of OEO. That officer shall conduct an objective and impartial preliminary investigation with such assistance from an appropriate administrator as needed. The administrator shall be from a higher administrative unit than that of the Respondent. Pending the results of the preliminary investigation, the Respondent will be suspended or assigned to other duties in lieu of suspension, by his or her immediate supervisor, only if immediate harm to the Complainant or others is threatened by continuance. Salary will continue during the period of the suspension. Following the preliminary investigation, the Assistant Director of OEO shall notify the Complainant and the Respondent of the finding and shall attempt to effect an informal resolution of the complaint. The Complainant and the Respondent also shall be provided with a full copy of the report. If the Assistant Director of OEO cannot arrange a mutually acceptable resolution and/or if that Officer has concluded that there is reasonable cause for further action, the Respondent will be given five business days after receipt of the report to either request a hearing or to prepare a response to the report before it is forwarded to the Respondent's immediate administrative supervisor and to the senior administrative officer of the Respondent's administrative unit (the vice president or, if the Respondent is a vice president, to the President). If the Respondent requests a hearing, the report will be referred to the Hearing Committee described below or, for cases in which the Respondent is tenured faculty member, handled in accordance with Section E.15 Disciplinary Action for Tenured Faculty of the *Manual*.

2. Sexual Harassment Panel (last revised May 1, 2001)

The members of the Sexual Harassment Panel are elected to three (3) year terms by their respective councils, the Administrative Professional Council and the Faculty Council. Nominations shall be solicited in February with elections conducted in April. Terms of office will begin July 1 following election. Terms shall be staggered so that approximately one-third (1/3) will be elected each year. The panel will consist of ten (10) administrative professionals from at least four (4) administrative units and (10) ten faculty members from at least four (4) colleges, including the libraries. Each member will receive annual training on sexual harassment by the Assistant Director of OEO. The Sexual Harassment Panel shall constitute a pool of individuals from which the Hearing Committee will be drawn.

3. Hearing Committee

A committee of five members of the Sexual Harassment Panel will be chosen by lot by the Chair of Faculty Council if the Respondent is an untenured faculty member and by the Chair of the Administrative Professional Council for administrative professionals and other non-student employees (excepting State Classified staff). The Hearing Committee for an untenured faculty member will be composed of faculty members and for administrative professionals of administrative professionals. Hearing Committees for other non-student employees (excepting State Classified staff) will be selected by lot from the entire Panel.

Any person from the same administrative unit or department as either the Complainant or the Respondent will be replaced by another drawn by lot. Members deeming themselves disqualified for bias or interest will remove themselves from the case. The Complainant and the Respondent will have a maximum of one (1) challenge each without stated cause.

4. Formal Hearing Procedures

a. Hearings will commence no later than ten (10) working days after the Hearing Committee chair notifies the Complainant and the Respondent. The Hearing Committee shall elect its own chair from among its members and shall be advised by legal counsel for the University or from the Colorado Department of Law.

b. The Hearing Committee may hold organizational meetings in private, which may include meetings with the Respondent and Complainant as needed to (1) clarify the issues, (2) effect stipulations of facts, (3) provide for the exchange of documentary or other information, (4) formulate a list of potential witnesses, and (5) achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.

c. The Assistant Director of OEO will be called first to present the results of the preliminary investigation. The committee also may conduct its own informal inquiry, call witnesses, and gather whatever information it deems necessary to assist it in reaching a determination on the merits of the

allegations. The hearing shall be closed, and the proceedings shall remain confidential to the extent permitted by law.

d. Excepting pre-hearing organizational meetings and those for final deliberation, finding of fact and preparation of recommendations, the Respondent is permitted to be present during all meetings of the committee, to call witnesses, to confront and cross-examine any adverse witnesses, and to be accompanied by an advisor and/or legal counsel. Such

advisor or counsel is free to advise the Respondent fully throughout the proceedings, to assist in formulating any required written documentation, and to help prepare for any oral presentation, but they may not actively participate in the proceedings such as making objections and attempting to argue the case. A full verbatim record of the hearing will be kept and made available to the Respondent upon request.

5. Recommendations Following Formal Hearings

At the conclusion of the hearing, the Hearing Committee shall meet privately for final deliberation, finding of fact, and preparation of recommendations. These deliberations shall remain confidential to the extent permitted by law. The committee shall decide, by majority vote and by the preponderance of the evidence (more likely than not) whether (1) the complaint is substantiated, (2) the complaint is unsubstantiated, or (3) the complaint is intentionally false or malicious. The finding, together with the basis for this finding, and recommendations shall be communicated in writing to both parties, the Assistant Director of OEO, the Respondent's immediate administrative supervisor, and the senior administrative officer of the Respondent's administrative unit (the vice president or, if the Respondent is a vice president, to the President). A finding by the majority of the Hearing Committee that the Respondent has, more likely than not, violated the Sexual Harassment policy must be accompanied by recommendations for remedial action reasonably calculated to stop the harassment or disciplinary sanctions up to and including termination of employment. If the committee finds that the complaint was deliberately false and malicious, this finding, together with a recommendation for appropriate disciplinary action against the Complainant, shall be forwarded to the senior administrative officer of the Complainant's administrative unit.

6. Administrative Action Following the Hearing Committee Recommendations *(last revised January 27, 2006)*

The senior administrative officer may accept the recommendations of the Hearing Committee or may recommend disciplinary actions more or less severe than those recommended by the Hearing Committee for persuasive reasons that shall be stated in writing to the Respondent and the Hearing Committee. If the Respondent accepts the recommendation of the senior administrative officer, the remedial action or disciplinary sanction shall be implemented without further review by the President. If the Respondent rejects such officer's recommendation, the President shall review the case and recommendation and shall make the final decision on

the disposition of the case. Since the procedures herein are designed to provide appropriate relief and due process, appeals through other grievance procedures such as Section K of the *Manual* cannot be made by either party.

¹ Any individual involved in a sexual harassment incident has the right to pursue the matter in Courts or before governmental agencies. The procedures herein are designed to preclude the need to utilize external agencies and to provide appropriate and effective remedies.

² Cases involving sexual harassment are particularly sensitive and demand special attention to issues of confidentiality. Dissemination of information relating to the case should be limited in order that the privacy of all individuals involved is safeguarded as fully as possible.