

**WESTERN KENTUCKY UNIVERSITY
POLICY AGAINST SEXUAL HARASSMENT**

Statement of Position

Western Kentucky University is committed to providing a working and learning environment that is free from sexual harassment, and it is the policy of this University that sexual harassment in any form will not be tolerated. Management and supervisory personnel, at all levels, are responsible for taking reasonable and necessary action to **prevent** sexual harassment. All members of the University community, employees, and students are required to promptly **report** conduct that could be in violation of this policy.

The University will take measures to periodically educate and train employees regarding conduct that could constitute a violation of this policy. All management and supervisory personnel are expected to participate in such education and training and to be knowledgeable concerning the University's policy.

All members of the University community are required to comply with the policy and procedures outlined to address complaints. In addition to the procedures outlined herein, discrimination and harassment complaints may be filed with the U.S. Equal Employment Opportunity Commission or U.S. Department of Education, Office for Civil Rights. Any complaint of sexual harassment filed under the University's policy shall be processed even if the complainant also files a complaint or suit with an outside agency, U.S. Equal Employment Opportunity Commission, or U.S. Department of Education, Office for Civil Rights. Retaliation against anyone who makes a complaint or participates in the complaint process will not be tolerated.

The University will (1) respond to every complaint of sexual harassment reported, (2) take action to provide remedies when sexual harassment is discovered, (3) impose appropriate sanctions on offenders in a case-by-case manner, and (4) protect the privacy of all those involved in sexual harassment complaints to the extent it is possible. The above actions will apply to the extent permitted by law or where personal safety is not an issue.

Definition of Sexual Harassment

Sexual harassment is defined as follows:

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 or educational experience;
- 2) submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual;
- 3) such conduct is sufficiently severe and pervasive so as to alter the conditions of, or have the purpose or effect of substantially interfering with, an individual's work or academic performance by creating an intimidating, hostile, or offensive working or educational environment.

Harassment does not include verbal expressions or written material that is relevant and appropriately related to course subject matter or curriculum, and this policy shall not abridge academic freedom or the University's educational mission.

Reporting Suspected Sexual Harassment

Any individual who believes he/she may have experienced sexual harassment, or who believes that he/she has observed sexual harassment taking place, should **report** this information

immediately to one of the following "**reporting officials**":

1. Equal Opportunity/504/ADA Compliance Director
2. The Director of Human Resources
3. The Associate Vice President for Student Affairs and Development
4. The Associate Vice President for Academic Programs and Personnel (Office of Academic Affairs)

Office locations, addresses, and telephone numbers for the above officials are provided on the last page of this policy. Reports/complaints, whether informal or formal, received by the Director of Human Resources, the Associate Vice President for Student Affairs and Development, or the Associate Vice President for Academic Programs and Personnel must, in turn, be immediately reported to the Equal Opportunity/504/ADA Compliance Office.

University Ombudsmen: The University has designated individuals to serve as University Ombudsmen. Information concerning the names, addresses and telephone numbers of these individuals is available in each of the offices listed above. Ombudsmen are available to provide only information and clarification regarding the University's policy and are not authorized or designated to receive, investigate, or resolve complaints, or otherwise participate in the complainant process. Information disclosed to an Ombudsman by any person is confidential and therefore will not be forwarded to the official(s) listed above. If a complainant desires to report a complaint of sexual harassment, he/she must do so to at least one of the four reporting officials listed above, in accordance with this policy.

Unless otherwise provided herein, investigation of sexual harassment complaints shall be the responsibility of the Equal Opportunity/504/ADA Compliance Office ("investigator").

Procedures for Investigation and Resolution of Sexual Harassment Complaints

Amendments to Procedures: The University specifically reserves the right to modify and/or amend any or all of the procedure(s) outlined herein at any time, in its discretion. In the event the University determines that circumstances warrant modification/amendment of any part of these procedures, timely notice of same shall be delivered, in writing, to all relevant and affected parties.

Western Kentucky University has adopted procedures to promptly and fairly address concerns and complaints about sexual harassment. Complaints may be submitted informally or formally. If a complaint implicates or involves both this policy and any other University complaint or grievance policy or procedure, the University may, in its discretion, suspend the procedures relating to other complaints or grievance policies pending completion of the sexual harassment complaint procedures.

Investigation of Complaints

Unless otherwise provided herein, responsibility for the investigation of both formal and informal sexual harassment complaints shall be with the Equal Opportunity/504/ADA Compliance Office ("investigator"). The President has the authority to appoint an alternate investigator as circumstances require and in his/her sole discretion. The procedures outlined herein shall control in the event an alternate investigator is appointed under any provision of this policy.

Complaints will be addressed as confidentially as possible, considering the specific circumstances of the allegations, to protect the rights of both the complainant and the person

accused. The investigator may gather information from any sources deemed necessary in an effort to fully investigate and resolve the complaint.

Investigator Conflict of Interest: The complainant, alleged offender and/or the investigator may allege that the investigator has a substantial conflict of interest. In that event, details supporting the alleged conflict of interest must be submitted in writing to the President within five (5) business days of the date the person alleging the conflict has notice of the investigator's identity. The President will determine whether a conflict may exist, and, if so, he/she shall appoint an alternate investigator in an expeditious manner. The President's decision is final. In the event a request for an alternate investigator is made and/or an alternate investigator must be appointed, the specific time lines provided in the policy shall be suspended pending that appointment.

Informal Complaint Process

An individual who feels he/she has been sexually harassed may desire to resolve his/her complaint informally (i.e., without formal disciplinary action being taken against the accused individual and without the formal investigatory process). Informal complaints are not required to be made in writing. An *example* of an informal complaint is one where the complainant requests only that an appropriate university official counsel the accused individual to cease and desist the alleged conduct, and requests no other specific action(s) be taken against the accused.

Persons making informal complaints of sexual harassment agree and understand that **no formal disciplinary action** will be taken against the alleged offender based on an informal complaint. If the complainant chooses, he/she may at any time prior to resolution of the informal complaint amend the informal complaint to a formal complaint.

If the alleged offender elects not to participate in resolving an informal complaint, the nonparticipation will not be considered as damaging evidence but will not change or waive the University's responsibility to investigate and to make decisions based on available information.

The investigator may, if the circumstances warrant, request that the alleged offender's immediate supervisor counsel him/her regarding the alleged conduct, and/or may recommend counseling, training, education, and/or other non-disciplinary actions be implemented or undertaken. Attempts to resolve an informal complaint will be completed within thirty (30) days from the date of receipt of the complaint by the investigator. The complainant and the alleged offender will be informed in writing of the outcome of the informal process.

Note: The University will attempt to balance the wishes of a complainant who does not want to file a formal complaint with the University's responsibility to respond to serious allegations and take prompt, appropriate corrective action. A complainant who chooses not to proceed with a formal complaint may be asked to state that preference in writing.

Formal Complaints of Sexual Harassment

Procedure

Filing a complaint: Formal complaints must be delivered by the complainant to one of the four reporting officials referenced on page 3. The formal complaint must be filed as soon as possible after the alleged incident occurred or after attempts to resolve the situation informally have been unsuccessful.

The formal complaint must be in writing, signed by the complainant, and shall include the following information:

1. Details concerning the incidents or conduct giving rise to the complaint;

2. Dates and location of incidents;
3. Any witnesses to the alleged incidents or conduct;
4. Action requested to resolve the complaint and prevent future violations of the policy.

Notifying the Person Accused / Supervisor: The alleged offender will be provided with a copy of the complaint by the investigator within five (5) business days of the investigator's receipt of said complaint. The investigator will notify the supervisor of the accused person regarding the complaint, in order that the supervisor may take appropriate temporary and/or remedial actions during the investigation. (Example: temporary assignment, investigate leave of absence.)

Investigative Process: The alleged offender will be required to submit a written response to the complaint within five (5) business days of receipt of a complaint, a copy of which will be provided to the complainant by the investigator.

The investigator will interview the complainant and the alleged offender, may also interview witnesses, supervisors, and/or any other persons who may have information about the alleged incident, and may review personnel or other records relevant to the complaint. The complainant and the accused person shall be permitted to suggest witnesses and/or other evidence, which shall be considered by the investigator. All individual interviews will be audio taped and subsequently transcribed in written format. Any person interviewed shall have the right to request a review of his/her transcribed statement for accuracy.

Investigative Findings: Within thirty (30) days of receiving the formal written complaint, the investigator will assess whether a violation of the policy has occurred and will submit findings

in writing to the complainant and the person accused. If the investigator finds by a preponderance of the evidence (that it is more likely than not) that the alleged sexual harassment has occurred, the investigator shall notify the accused person, his/her immediate supervisor, and the Associate Vice President for Programs and Personnel (if the accused is a faculty member) or the Director of Human Resources (if the accused is a staff member).

The supervisor of the alleged offender shall be responsible for acting on the findings of the investigator. In accordance with University disciplinary policies/procedures, the supervisor shall consult with and/or notify the appropriate University administrative official(s) regarding formal disciplinary actions to be taken against the person accused.

Disciplinary Action: Within ten (10) business days of receiving the investigator's findings, the supervisor shall meet with the accused person to discuss the findings and recommendations and shall determine appropriate disciplinary action.

In making a decision regarding discipline, the supervisor shall consider properly established records of previous conduct and the seriousness of the violation. A complaint made more than twelve (12) months after the incident shall not be the basis for formally disciplining any person accused of sexual harassment. However, where there are allegations of sexual harassment made within the twelve (12) month period and a pattern or practice of sexual harassment exists or prior complaints of sexual harassment have been confirmed, the supervisor shall consider the totality of information in determining appropriate discipline, and may also take formal disciplinary action. The supervisor may also review any part of the investigative records.

Appropriate discipline may range from an oral reprimand up to and including termination/dismissal for cause or any other appropriate remedial action. The investigator and the

Associate Vice President of Academic Affairs for Programs and Personnel (if the accused is a faculty member) or the Director of Human Resources (if the accused is a staff member) shall be consulted regarding disciplinary decisions.

Both the accused person and investigator will be notified in writing of the decision of the supervisor. The investigator will, in turn, notify the complainant regarding the resolution of the complaint, what corrective action, if any, will be taken, and/or, in general, whether any discipline will be imposed.

Appeal of Formal Complaint Resolution / Disciplinary Action

Procedure

Filing an appeal: Either the complainant or person accused may file an appeal of any decision concerning the resolution of the complaint. An appeal by either party must be made in writing, delivered to the Office of the President in Wetherby Administration Building within five (5) business days of receipt of the notice of resolution/disciplinary decision.

The written appeal must state in detail the reason(s) for the appeal and shall address one or more of the following:

- (1) if the appeal alleges the findings of the investigator included relevant factual errors or omitted relevant facts, the appeal shall specify each and every alleged factual error, and/or details of each, and every relevant fact that was omitted from the investigation;
- (2) if the appeal alleges substantive procedural errors, the person appealing shall identify each and every instance of said substantive procedural error;
- (3) if the appeal alleges relevant and substantive issues or questions concerning

interpretation of University policy, the person appealing shall state, in detail, the issues/questions supporting this allegation;

- (4) if the appeal alleges new information or evidence, the person appealing shall specify the reasons why said information was not available or provided to the investigator during the investigation, including specific reasons why said information could not have been provided on a timely basis;
- (5) if the appeal alleges either that the action(s) or inaction(s) of the supervisor in response to the findings of the investigator will not prevent future violation(s) of this policy, the person appealing shall specify, in detail, the reasons and basis for this belief/allegation.

No disciplinary or other action based on the complaint shall be taken against the alleged offender during the appeal process, although temporary, interim measures may remain in place.

As indicated herein, the University in its discretion, may at any point in the complaint process elect to place the alleged offender on administrative leave, with pay, or implement a temporary reassignment.

Sexual Harassment Appeal Committee: Appeals shall be submitted to a Sexual Harassment Appeal Committee whose members shall be selected and appointed by the President. The Committee will include at least one male and one female.

Member Appointments: Both the complainant and the alleged offender shall be provided with an opportunity to submit written objections within a specific time period to the appointment of any Committee member(s) on the basis of that member's inability to act impartially. If the President determines that a Committee member cannot act impartially, then an alternate appointment shall be made. The Committee shall be appointed in a timely manner, considering all

relevant circumstances. The President's decision regarding Committee appointments is final.

Hearing / Committee Recommendation: The Committee will conduct a formal hearing and will allow the complainant and the accused person ("the parties") to present information which, in the Committee's discretion, is relevant to the allegations. If the appeal involves allegations described in item 5, above, the Committee will likewise consider the statement(s) of the supervisor. The Committee shall have sole discretion regarding the personal appearance of any witness, whether to consider only the parties' statements and review only the written record, or any other matter regarding the conduct of the hearing. The hearing will not be considered a judicial hearing but rather an internal hearing at which the complainant and the alleged offender are present. Legal counsel will not be permitted to be present during any part of the Committee hearing. The formal hearing shall be audio taped and transcribed.

The Committee's deliberations shall be closed to all persons other than the Committee members and shall not be audio taped. Its recommendation will be determined by a majority vote, shall be in writing, and delivered to the President. It may be accompanied by a minority opinion. The appeal will be conducted and completed in an expeditious manner, considering all the circumstances.

President's Review and Recommendation: The President shall review the recommendation and may either affirm, amend, or return the recommendation for further deliberation and recommendation by the Committee. The President's review and decision will be conducted in an expeditious manner, considering all the circumstances, shall be a final decision, and will be reported in writing to the complainant, person accused, the supervisor, and the investigator.

Written Record of Complaints, Investigations, and Resolutions/Decisions

Written records of complaints will be marked "CONFIDENTIAL" and will be retained in a separate and secure (locked) file in the Equal Opportunity/504/ADA Compliance Office.

Records shall be retained as required by state law.

Written records relating to a finding that sexual harassment has occurred may be placed in an accused employee's official personnel file and may include: (1) any document that has been mutually agreed to by the University and the person accused of harassment; (2) a letter issued by the responsible administrator to the accused person at the conclusion of a formal investigation, which notifies the accused of actions, decisions and/or other recommendations concerning the complaint; (3) a settlement agreement between the parties.

Dissemination of Policy

The policy will be made available to all employees and students. Periodic notices sent to students, employees, and supervisors about the University's Policy Against Sexual Harassment will include information about the complaint procedure and will refer individuals to designated offices/officials for additional information.

RESPONSIBILITIES OF OMBUDSMEN

As a University Ombudsmen, I am available to provide only information and clarification regarding the University's Policy Against Sexual Harassment and related procedures for investigating and resolving complaints of sexual harassment.

Information and/or complaints disclosed to me or any other University Ombudsman are confidential and therefore such information and/or complaints will not be forwarded or reported to the reporting official(s) listed below.

I am not authorized or designated to receive, investigate, or resolve complaints, or otherwise participate in the complainant process.

If you want to report a complaint of sexual harassment, you should contact one of the four reporting officials, listed below. If you request assistance, I can assist you by arranging an appointment or meeting for you with one of the reporting officials.

UNIVERSITY OMBUDSMEN:

Cecile Garmon
Fine Arts Center, Room 231
Phone: 745-5373
E-mail: Cecile.Garmon@wku.edu

Sonya Gray
Downing University Center, Room 128
Phone: 745-5466
E-mail: Sonya.Gray@wku.edu

Sharon Hartz
Tate Pate Hall, Room 208
Phone: 745-4662
E-mail: Sharon.Hartz@wku.edu

Martha Jenkins
Academic Complex, Room 302-B
Phone: 745-3993
E-mail: Martha.Jenkins@wku.edu

Lois Jircitano
Tate Page Hall, Room 424-C
Phone: 745-4990
E-mail: Lois.Jircitano@wku.edu

Molly Kerby
Helm Library, Room 6
Phone: 745-6103
E-mail: Molly.Kerby@wku.edu

Freda Mays
South Campus / Community College
Phone: 780-2541
E-mail: Freda.Mays@wku.edu

Diana "Dee" Miller
Glasgow Campus, Advising Room 301
Phone: (270) 651-6399 or 745-5096
E-mail: Dee.Miller@wku.edu

Judy Owen
Cravens Library, Room 216
Phone: 745-3095
E-mail: Judy.Owen@wku.edu

Linda Pulsinelli
TCCW, Room 346
Phone: 745-6232
E-mail: Linda.Pulsinelli@wku.edu

Larry Snyder
Fine Arts Center, Room 200
Phone: 745-5758
E-mail: Lawrence.Snyder@wku.edu

Mark Williams
Preston Health and Activities Center, Room 203
Phone: 745-6541
E-mail: Mark.Williams@wku.edu

Larry Winn
Fine Arts Center, Room 130
Phone: 745-5876
Email: Larry.Winn@wku.edu

Judy Zibart
Facilities Management/Main Office
Phone: 745-3253
E-mail: judy.zibart@wku.edu

Reporting Suspected Sexual Harassment

Any individual who believes he/she may have experienced sexual harassment, or who believes that he/she has observed sexual harassment taking place, should **report** this information immediately to one of the following “**reporting officials**”:

Huda Melky
Equal Opportunity / ADA Compliance Office
Wetherby Administration Building #13
1 Big Red Way
Bowling Green, KY 42101-3576
(502) 745-5121

Tony Glisson
Office of Human Resources
Wetherby Administration Building #42
1 Big Red Way
Bowling Green, KY 42101-3576
(502) 745-2071

Howard Bailey
Office of Student Life
Potter Hall #442
1 Big Red Way
Bowling Green, KY 42101-3576
(502) 745-2791

John Petersen
**Office of the Provost/Vice President
for Academic Affairs**
1 Big Red Way
Bowling Green, KY 42101-3576
(502) 745-2297

Copies of the complete Sexual Harassment Policy are available in the above offices and also at the following locations:

University Libraries
Reference Department
1 Big Red Way
Bowling Green, KY 42101-3576
(270) 745-6125

Office of the President
Wetherby Administration Building
1 Big Red Way
Bowling Green, KY 42101-3576
(270) 745-4346