

**CONCORD UNIVERSITY BOARD OF GOVERNORS
POLICY NO. 37
SEXUAL HARASSMENT POLICY**

PREFACE Concord University is committed to providing faculty, staff, and students with a work and educational environment free from all forms of sexual harassment. Therefore, sexual harassment, in any manner or form, of Concord University students and employees is a violation of University policy and expressly prohibited. Sexual harassment is demeaning, degrading, and illegal. It affects an individual's self-esteem, and can have a negative impact on an individual's work or academic performance. Therefore, this policy shall encompass all academic faculty, including adjunct and temporary; all staff and other employees on the University payroll; and students enrolled in programs under the auspices of Concord University. It is the responsibility of the University to provide educational opportunities and to take appropriate corrective action when sexual harassment is reported or becomes known. Moreover, it is the responsibility of the University to keep this policy up-to-date and distribute this policy to the University community through publications (particularly faculty and student handbooks), websites, new employee orientations, student orientations, and other appropriate channels of communication.

- SECTION 1. GENERAL.**
- 1.1 Scope: This rule defines sexual harassment, provides guidelines for filing sexual harassment complaints, and explains what action will be taken against those found to have engaged in sexual harassment.
 - 1.2 Authority. W. Va. Code §18B-1-6. A policy statement issued by the Office for Civil Rights of the U. S. Department of Education on the interpretation of the following: Title IX of the Education Amendments of 1972 and Equal Employment Opportunity Commission (EEOC) interpretative guidelines issued in March, 1980; and subsequent federal court decisions on the subject of sexual harassment.
 - 1.3 Effective Date: 8/2/07
 - 1.4 Approved by: Concord University Board of Governors 6/19/07

- SECTION 2. SEXUAL HARASSMENT RULE.**
- 2.1 It is the rule of Concord University to maintain a work and educational environment free from all forms of sexual harassment of any employee, applicant for employment, or student.
 - 2.2 Sexual harassment in any manner or form is expressly prohibited.
 - 2.3 It is the responsibility of the University to provide educational opportunities to create this sexual harassment free environment and to take immediate and appropriate corrective action when sexual harassment is reported or becomes known.
 - 2.4 Supervisors at every level are of primary importance in the implementation and enforcement of this rule.

- SECTION 3. DEFINITION AND CONSENSUAL RELATIONSHIP GUIDELINES
- 3.1 Sexual harassment is intended to be defined consistent with EEOC and United States Department of Education guidelines. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:
- 3.1.1. Submission to such conduct is an explicit or implicit condition of employment or academic achievement.
 - 3.1.2 Submission to or rejection of such conduct is used as the basis for employment or academic decisions or:
 - 3.1.3 Such conduct has the purpose or effect of:
 - 3.1.3.1 Unreasonably interfering with an individual's work or educational performance, or:
 - 3.1.3.2 Creating an intimidating, hostile or offensive work or educational environment, or:
 - 3.1.3.3 Causing a reasonable person mental injury, fear, or emotional distress.
- 3.2 Although the University acknowledges that consensual relationships are within the realm of individual privacy, it is necessary to advise that these relationships, particularly those occurring between supervisors and staff members or between faculty and students or between staff and students, can lead to circumstances that can be interpreted as sexual harassment. Consensual relationships can also be interpreted as causing hostile or offensive work environments when other staff members or students believe that person(s) are receiving favorable treatment in employment or educational decisions.
- 3.2.1 Student-Teacher Relationships
- 3.2.1.1 It is a University policy violation for a faculty or staff member to engage in an amorous, dating, or sexual relationship with a student.
 - 3.2.1.1 Where there is an existing or preexisting amorous, dating or sexual relationship, the individual with the power or status advantage shall notify their immediate supervisor.
 - 3.2.1.2 The supervisor has the responsibility for making arrangements to eliminate or mitigate a conflict whose consequences might prove detrimental to the University or to either party in the relationship.
 - 3.2.1.3 Persons engaging in such conduct may be subject to disciplinary action.
- 3.2.2 Supervisor-employee relationships
- 3.2.2.1 The University views as inappropriate any amorous, dating, or sexual relationship with a power differential between an administrator,

manager, supervisor, or staff employee when the superior has the authority, influence, or responsibility with regard to that employee.

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- 3.2.2.2 The supervisor has the responsibility for making arrangements to eliminate or mitigate a conflict whose consequences might prove detrimental to the University or to either party in the relationship.
- 3.2.2.3 Persons engaging in such conduct may be subject to disciplinary action

SECTION 4. COMPLAINT PROCEDURES

4.1 Requirement for Filing Complaints

- 4.1.1 Any current employee, student or applicant to Concord University, regardless of whether he or she is applying for employment or for admission as a student (herein referred to as complainant) may file a sexual harassment complaint with the Vice President of Student Affairs. A sexual harassment complaint involving the Vice President of Student Affairs should be filed with the President.
- 4.1.2 A complaint may be filed with the Vice President of Student Affairs or President without first discussing the issues with any other University official. However, it is encouraged that individuals first attempt to resolve the complaint by bringing the issue to their or the accused's supervisor or next level supervisor, unless the complaint involves activity that can be considered a sexual-assault.
- 4.1.3 A complaint should be filed within forty five (45) days following the alleged act of harassment, or the date on which the complainant knew or reasonably should have known of said act.

4.2 Requirements for Handling Complaints

- 4.2.1 Personnel Involved: The Vice President of Student Affairs shall be charged with investigating the complaint. The Vice President of Student Affairs shall have the responsibility of appointing investigators, who shall be trained and certified in investigative procedures. The Vice President of Student Affairs, investigators involved in the complaint, and/or the complainant may request the help or advice of a trained Sexual Assault Response Team (SART) person if necessary. The investigation shall proceed as soon as possible within the times set in this policy following any

report of sexual harassment. All results shall be reported to the President, who will carry out sanctions if warranted. If criminal activity is determined, the Vice President of Student Affairs shall report its findings to both the President and the Office of Public Safety.

During all interviews regarding a sexual harassment charge, both the complainant and the accused shall have the right to be accompanied by an advocate or professional counsel.

Both individuals shall also have the right to clarify or respond to the accusation in writing and to be apprised in writing of the outcome of the complaint.

4.2.2 The University's Vice President of Student Affairs shall:

4.2.2.1 Receive a complaint and assist the complainant in defining the charge and completing the complaint form. The Vice President of Student Affairs and/or the complainant can request the assistance of a trained SART person if necessary;

4.2.2.2 Apprise the person(s) named in the complaint (herein referred to as the respondent) and the appropriate administrative offices of the allegation and notify them that no retaliation may occur;

4.2.2.3 Assist the individuals named in the complaint in interpreting the charge;

4.2.2.4 Take no retaliation or reprisal against the complainant, others related to the complainant, or persons involved in the complaint investigation;

4.2.2.5 Obtain a response to the complaint within fifteen (15) working days, excluding breaks, after receipt of the allegations;

4.2.2.6 Upon receipt of the response from the respondent named in the complaint, investigate the complaint further if necessary and appropriate, having access to all necessary documents and the right to interview witnesses, including the complainant and the respondent;

4.2.2.7 Issue a finding on the case, in writing, to all individuals named in the complaint within twenty-five (25) working days, excluding breaks, of completion of the investigation;

4.2.2.8 Make recommendations for the resolution of the complaint; and

4.2.2.9 Monitor the recommendations for implementation, and see that appropriate action

is taken without retaliation against the complainant or respondent.

- 4.2.3 The respondent shall:
 - 4.2.3.1 Provide a response to the charge within ten (10) working days, excluding breaks, after receipt of the charge.
 - 4.2.3.2 Take no retaliation or reprisal against the complainant, others related to the complainant, or persons involved in the complaint investigation.
- 4.2.4 The complainant is responsible for:
 - 4.2.4.1 Whenever possible, attempting to resolve complaints through their or the accused's supervisor. If such discussions fail to resolve the complaint, the complainant may seek a review of his or her complaint in accordance with subsections below.
 - 4.2.4.2 Contacting the University's Vice President of Student Affairs, the Office of Public Safety, and/or SART for advice and/or counseling if there is a concern about being sexually harassed, and
 - 4.2.4.3 Filing a complaint of sexual harassment with the University's Vice President of Student Affairs, as set forth herein, if the situation remains unresolved.
- 4.2.5 No employee of the University shall retaliate against either a complainant or respondent or any witness, or against any person whom s/he believes to be either a complainant or respondent or witness, nor will s/he encourage any other person to do so.

SECTION

5. ACTIONS TO BE TAKEN

- 5.1 ENGAGED IN SEXUAL HARASSMENT: Any student, supervisor, agent or other employee who is found, after appropriate investigation, to have engaged in the sexual harassment of another employee or a student will be subject to appropriate disciplinary action. Depending on the circumstances, sanctions may include termination of employment or expulsion.
 - 5.1.1 This section does not limit the University's right and authority to discipline any respondent who has been found to have committed sexual harassment.
- 5.2 DISHONEST OR FRIVOLOUS COMPLAINTS: Any student, supervisor, agent or other employee of the University who is found, after appropriate investigation, to have engaged in intentional false accusation, or the bringing of false charges shall

be subject to disciplinary action, which could include suspension or expulsion to the extent allowed by the Board of Governors.

5.3 CONFIDENTIALITY: The confidentiality of all parties involved in a sexual harassment charge shall be strictly respected insofar as it does not interfere with the University's obligation to investigate misconduct allegations and to take corrective action.

5.4 SEXUAL ASSAULT, ABUSE, OR BATTERY: In all reported accusations of sexual assault, abuse, or battery, the Director of Public Safety and the appropriate law enforcement agencies shall be the primary investigators, and shall follow procedure as with any crime investigation pursuant to state statute.

SECTION 6. RETALIATION: Any student, supervisor, or employee who files a report, or otherwise takes action with regard to a sexual harassment complaint shall be protected from retaliation. Retaliation is a grievable offense. Any student or employee found guilty of retaliation shall be disciplined to the maximum extent allowed.