

INDIANA UNIVERSITY BLOOMINGTON

Policy Against Sexual Harassment

(By Action of the University Faculty Council: March 10, 1998; Amended and Approved by the Board of Trustees: June 15, 1998)

Harassment on the basis of sex is a violation of federal and state law. Indiana University does not tolerate sexual harassment of its faculty, staff, or students. Individuals who believe they are victims of sexual harassment, as well as those who believe they have observed sexual harassment, are strongly urged to report such incidents promptly. Indiana University will investigate every sexual harassment complaint in a timely manner and, when there is a finding of sexual harassment, take corrective action to stop the harassment and prevent the misconduct from recurring. The severity of the corrective action, up to and including discharge or expulsion of the offender, will depend on the circumstances of the particular case.

Once a person in a position of authority at Indiana University has knowledge, or should have had knowledge, of conduct constituting sexual harassment, the university could be exposed to liability. Therefore, any administrator, supervisor, manager or faculty member who is aware of sexual harassment and condones it, by action or inaction, is subject to disciplinary action.

A. Definitions

Following federal guidelines, Indiana University defines sexual harassment 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 academic advancement;
2. submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or learning environment.

B.

Application

This University policy is designed to protect all members of the University community. It applies to relationships among peers as well as to superior/subordinate relationships. It also applies to all individuals, regardless of their gender or sexual orientation.

C. Provisions

1. Faculty, staff, and students have the right to raise the issue of sexual harassment. Further harassment against complainants or retaliation against complainants or others

who participate in the investigation of a complaint will not be tolerated. Appropriate and prompt disciplinary or remedial action will be taken against persons found to be engaging in such further harassment.

2. The university will deal with reports of sexual harassment in a fair and thorough manner, which includes protecting, to the extent possible, and to the extent permitted by law, the privacy and reputational interests of the accusing and accused parties.

3. Education is the best tool for the prevention and elimination of sexual harassment. Each dean, director, department chair, and/or administrative officer is responsible within his/her area of jurisdiction for the implementation of this policy, including its dissemination and explanation.

4. It is the obligation and shared responsibility of all members of the University community to adhere to this policy.

D. Enforcement Principles

Enforcement and implementation of this sexual harassment policy will observe the following principles:

1. Each campus must have procedures -- consistent with notions of due process -- for implementing this policy including where complaints are made, who investigates complaints, how complaints are resolved, what procedures are available for appeals, and how records are kept.

2. The Campus Affirmative Action Officer shall serve as a resource with regard to interpretation of sexual harassment guidelines.

3. Confidentiality of information relating to investigations of complaints of sexual harassment shall be maintained to the extent practical and appropriate under the circumstances and to the extent permitted by law. Individuals charged with implementing this policy shall share information with regard to given incidents of sexual harassment only with those who have a "need to know" in order to implement this policy.

4. Investigations must be conducted promptly and thoroughly.

5. Whether particular actions constitute sexual harassment will be determined from the facts, on a case-by-case basis. The university will look at the record as a whole, as well as the context in which the alleged misconduct occurred.

6. Both the charging party and the respondent will be notified of the outcome of the investigation.

7. In the event it is found that sexual harassment has occurred, corrective action, up to and including discharge or expulsion of the offender, will be taken through the appropriate channels of the university. The corrective action will reflect the severity and persistence of the harassment, as well as the effectiveness of any previous remedial action. In addition, the university will make follow-up inquiries to ensure the harassment has not resumed and the complainant has not suffered retaliation.

Appendix A

Examples of Sexual Harassment

A male craft worker continually makes off-color, sexual jokes about women in front of a new female apprentice. In addition, he does not give her important training she needs to successfully complete her apprenticeship and puts her down in front of her co-workers. When she discusses the situation with her supervisor, she is told to ignore it. In addition, when the supervisor witnesses the behavior, no action is taken to stop it.

When an affair between a supervisor and one of his employees goes sour, he refuses to share important information with the employee and gives him poor performance reviews in retaliation for breaking off the relationship.

A clerical worker is promised a promotion if he agrees to date his supervisor.

After a doctoral student refuses the sexual advances of her dissertation director, she begins to receive extreme, negative criticism, challenging the scholarly worth of her dissertation, although previously the proposal had been given the director's full support.

A professor constantly asks one of his students to accompany him to a local restaurant to discuss her work. At first the professor discusses matters related to her course work, but lately he has begun talking about his recent divorce, as well as telling the student how pretty she is and how much he would like to get to know her better. Eventually the professor asks her to go out with him. The student states that she would rather they simply continue to discuss her course work, but the professor insists that they go out next weekend just to have fun.

Not knowing what to do, a student confides in a female faculty member, stating that she is extremely uncomfortable with the advances of one of her professors. Uneasy about discussing the matter with her colleague or the dean, the professor tells the student she can be counted on to lend a sympathetic ear, but otherwise makes no attempt to report.

In the hospital hallway, a male doctor and a male student health care professional once again discuss the physical attractiveness of a female patient. The female student health care professional feels embarrassed and excluded by the conversation. She suspects that she has also been the topic of a similar conversation. When she expresses her feelings of discomfort, she is told there is no harm intended and that she needs to "grow up" if she wants to be successful on this clinical rotation.

Appendix B

Policy on Consensual Relationships

(Academic Handbook, 1997, pages 36 & 37)

Relations with Students. With regard to relations with students, the term "faculty" or "faculty member" means all those who teach and/or do research at the University including (but not limited to) tenured and tenure-track faculty, librarians, holders of research or clinical ranks, graduate students with teaching responsibilities, visiting and

part-time faculty, and other instructional personnel including coaches, advisors, and counselors.

The University's educational mission is promoted by professionalism in faculty/student relationships. Professionalism is fostered by an atmosphere of mutual trust and respect. Actions of faculty members and students that harm this atmosphere undermine professionalism and hinder fulfillment of the University's educational mission. Trust and respect are diminished when those in positions of authority abuse or appear to abuse their power. Those who abuse their power in such a context violate their duty to the University community.

Faculty members exercise power over students, whether in giving them praise or criticism, evaluating them, making recommendations for their further studies or their future employment, or conferring any other benefits on them. All amorous or sexual relationships between faculty members and students are unacceptable when the faculty member has any professional responsibility for the student. Such situations greatly increase the chances that the faculty member will abuse his or her power and sexually exploit the student. Voluntary consent by the student in such a relationship is suspect, given the fundamental asymmetric nature of the relationship. Moreover, other students and faculty may be affected by such unprofessional behavior because it places the faculty member in a position to favor or advance one student's interest at the expense of others and implicitly makes obtaining benefits contingent on amorous or sexual favors. Therefore, the University will view it as a violation of this Code of Academic Ethics if faculty members engage in amorous or sexual relations with students for whom they have professional responsibility, as defined in number 1 or 2 below, even when both parties have consented or appear to have consented to the relationship. Such professional responsibility encompasses both instructional and non-instructional contexts.

8. Relationships in the Instructional Context. A faculty member shall not have an amorous or sexual relationship, consensual or otherwise, with a student who is enrolled in a course being taught by the faculty member or whose performance is being supervised or evaluated by the faculty member.

9. Relationships outside the Instructional Context. A faculty member should be careful to distance himself or herself from any decisions that may reward or penalize a student with whom he or she has or has had an amorous or sexual relationship, even outside the instructional context, especially when the faculty member and student are in the same academic unit or in units that are allied academically.

[On the following page is the Policy on Consensual Relationships for appointed staff.]

Policy on Consensual Relationships for Appointed Staff

Personnel Policies for Appointed Support Staff, Represented by CWA, Local 4730 (policy 6.2, page 2):

MEMORANDUM OF UNDERSTANDING:

During the course of our 1995 negotiations the University and the CWA discussed the need to alter the University Sexual Harassment policy to specifically address the issue of

consensual romantic and/or sexual relationships in the workplace where a conflict may exist. The parties have reached an agreement concerning a Statement concerning consensual romantic and/or sexual relationships. This statement is included as part of this memorandum. The University Administration and the CWA will jointly recommend to the appropriate University committees and officials that the principles contained within this Statement be incorporated in the University Sexual Harassment Policy. In the interim period, this Statement will be circulated to everyone who supervises clerical and technical employees and who will be expected to comply.

Statement on Consensual Relationships:

It is in the interest of Indiana University to provide clear direction to all employees about the risks associated with consensual romantic and/or sexual relationships between members of the university community where a conflict of interest between the parties exist or may exist.

Conflicts of interest may arise when such relationships occur between and among employees, students, and prospective employees. University policies and ethical principles already preclude staff from evaluating the work of others with whom they have intimate familial relationships, or from making hiring, promotional, transfer, or similar decisions concerning such persons. The same principles apply to consensual romantic and/or sexual relationships and require, at a minimum, that appropriate arrangements be made for objective decision making. Additionally, in the event of a charge to sexual harassment, the University will give very critical scrutiny to any defense based upon consent when the facts establish that a power differential existed with the relationship.

Whenever a conflict of interest exists, or may exist, because of a consensual romantic and/or sexual relationship in the workplace, it is the responsibility of both parties to disclose the consensual romantic and/or sexual relationship to his/her immediate supervisor or the next level of management if the relationship involves the immediate supervisor. The supervisor or next level of management shall be responsible for making arrangements to eliminate or mitigate a conflict whose consequences might prove detrimental to the University.

Appendix C

Equal Employment Opportunity

(Academic Handbook, 1997, page 51)

EQUAL OPPORTUNITY / AFFIRMATIVE ACTION POLICY:

Indiana University pledges itself to continue its commitment to the achievement of equal opportunity within the University and throughout American society as a whole. In this regard, Indiana University will recruit, hire, promote, educate, and provide services to persons based upon their individual qualifications. Indiana University prohibits discrimination based on arbitrary considerations of such characteristics as age, color, disability, ethnicity, gender, marital status, national origin, race, religion, sexual orientation, or veteran status.

Indiana University shall take affirmative action, positive and extraordinary, to overcome the discriminatory effects of traditional policies and procedures with regard to the disabled, minorities, women, and Vietnam-era veterans.

(Board of Trustees, Nov. 21, 1969; Amended: Board of Trustees, December 4, 1992)

The University administration and faculty governance regularly review policy to maintain compliance with current EEOC regulations and guidelines.

(Administrative Practice)

Appendix D

Mandate for Complaint Procedures

(Code of Student Rights, Responsibilities, and Conduct, 1997, page 16)

Part II.F.

6. After June 1, 1997, complaints against faculty may not be handled under the procedures mentioned in this section until these procedures have been approved by the appropriate faculty governance body.