

THE CITY UNIVERSITY OF NEW YORK

Office of the General Counsel and Vice Chancellor for Legal Affairs


535 East 80 Street, New York, N.Y. 10021

212/794-5382



**ADMINISTRATIVE ADVISORY
MEMORANDUM #11**

November 20, 1991

To: College Presidents
From: Vice Chancellor Robert E. Diaz 
Re: University Policy Against Sexual Harassment

The issue of sexual harassment in the workplace has recently been the subject of national attention.

City University policy unequivocally prohibits harassment of employees or students on the basis of sex. A copy of the Policy Against Sexual Harassment adopted by the Board of Trustees on January 25, 1982 is attached. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or written communications or physical conduct of a sexual nature when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing ("quid pro quo" harassment),
- (2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual (also "quid pro quo" harassment), or
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment ("hostile environment" harassment).

This definition is consistent with the guidelines of the federal Equal Employment Opportunity Commission, and with the Supreme Court's decision in Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986), which found "hostile environment" harassment to be sex discrimination under federal law.

The University's policy sets forth procedures to hear and investigate employee or student complaints of sexual harassment. Students claiming sexual harassment are to report to their Dean of Students; employees covered by collective bargaining agreements that include gender discrimination as a ground for grievance are to use the grievance procedure in their agreements; and employees not covered by a collective bargaining agreement, or whose agreement does not include gender discrimination as a ground for grievance, are to report claims of sexual harassment to a member of a panel set up by the college president.

In order to parallel the employee grievance procedures and to foster the speedy resolution of such complaints, the policy encourages students and non-covered employees to make allegations of sexual harassment within thirty days of the date of alleged occurrence, except for extenuating circumstances. It should be emphasized, however, that allegations may be filed with the college president or appropriate administrator at any time by any University student or employee, and should be investigated and acted upon. This does not, however, extend the time limitations for filing a grievance pursuant to a collective bargaining agreement.

EEOC policy makes clear the college's duty with respect to complaints of sexual harassment. "When [a college] receives a complaint or otherwise learns of alleged sexual harassment [of employees or students, the college] should investigate promptly and thoroughly. The [college] should take immediate and appropriate corrective action by doing whatever is necessary to end the harassment, and make the victim whole by restoring lost employment benefits or opportunities, and prevent the misconduct from recurring The [college] should make follow-up inquiries to ensure the harassment has not resumed and the victim has not suffered retaliation." Corrective action may range from reprimands (either oral or written), of employees who participated in or knew of but failed to report harassing conduct, to discharge, in the most serious cases.

The president of each college is responsible for overseeing compliance with this policy. Each dean, director, department chairperson, administrator or other person with supervisory responsibility is responsible for the implementation and dissemination of this policy within his or her area of jurisdiction. It is important for several reasons to publicize and disseminate widely this policy: to prevent sexual harassment from occurring, to remind the University community that such harassment is taken seriously and will not be tolerated, and to encourage victims of sexual harassment to come forward with their charges.

The University policy, along with other materials on sexual assault prevention, was enclosed with my Student Advisory Memorandum No. 10, dated August 15, 1991. It is prudent to publish the anti-sexual harassment policy in student and employee handbooks, college catalogs and in the sexual assault prevention information.

c: Chancellor's Cabinet
Chief Academic Affairs Officers
Chief Administration Officers
Chief Student Affairs Officers
Labor Designees
Legal Affairs Designees

**THE BOARD OF TRUSTEES
THE CITY UNIVERSITY OF NEW YORK**

A. POLICY AGAINST SEXUAL HARASSMENT: RESOLVED, That the following policy prohibiting sexual harassment be adopted, effective immediately:

POLICY

It is the policy of The City University of New York to prohibit harassment of employees or students on the basis of sex. This policy is related to and is in conformity with the equal employment opportunity policy of the University to recruit, employ, retain and promote employees without regard to sex, age, race, color or creed. Prompt investigation of allegations will be made on a confidential basis to ascertain the veracity of complaints and appropriate corrective action will be taken.

It is a violation of policy for any member of the University community to engage in sexual harassment. It is a violation of policy for any member of the University community to take action against an individual for reporting sexual harassment.

POLICY GUIDELINES

A. Definition:

For purposes of this policy, unwelcome sexual advances, requests for sexual favors, and other verbal or written communications 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 standing,
- (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 performance or creating an intimidating, hostile, or offensive working environment.

B. Responsibilities:

- (1) The President of each college is responsible for overseeing compliance with the implementation of this policy.
- (2) Each dean, director, department chairperson, administrator or other person with supervisory responsibility is responsible within his/her area of jurisdiction for the implementation and dissemination of this policy.

C. Procedures:

1. Students claiming harassment on the basis of sex shall report such harassment to the Dean of Students. Upon receipt of such complaint, the Dean shall make an informal confidential investigation and report his or her findings to the President with appropriate recommendations. The Dean shall consult with the Campus Title IX Coordinator in this process.
2. Employees covered by collective bargaining agreements which include gender discrimination as a ground for grievance, shall utilize the grievance procedure provided in their respective agreements.
3. Employees not covered by a collective bargaining agreement or covered by an agreement which does not include gender discrimination as a ground for grievance, shall utilize the following procedure:
 - (a) Each college president shall appoint a panel of at least three persons to handle complaints arising in the college; an appropriate announcement of the formation of the panel and its membership should be disseminated to the college community;

(b) Individuals who believe that they have been harassed on the basis of sex should communicate with a member of the panel. The panel member should be available for consultation and assistance and should attempt to resolve the problem in a manner which is fair and equitable and which is consistent with this University policy.

The initial effort by a panel member in response to a complaint shall be made on an informal basis and every effort shall be made to insure the privacy of both the complainant and the accused.

(c) If no informal resolution of the allegations is achieved, the panel member shall promptly submit written report with recommendations to the President.

(d) Following receipt of the report, the President may take such further action as he/she deems necessary, including the initiation of disciplinary proceedings.

4. Allegations of sexual harassment under C.1 and C.3 above should be made within 30 days of the date of alleged occurrence, except for extenuating circumstances.

5. The University Offices of Faculty and Staff Relations and Legal Affairs are available to assist the colleges in the implementation of these procedures.

EXPLANATION: The policy is in accordance with guidelines of the United States Equal Employment Opportunity Commission, which recommend that employers adopt policy guidelines expressing strong disapproval of sexual harassment and develop appropriate investigative procedures and sanctions for improper conduct. These guidelines make such principles applicable to all members of the University community.

January 25, 1982, Cal. No. 5.A.

Martin J. Warmbrand, Secretary of the Board

A true copy of resolution adopted by the Board of Trustees