

BUCKNELL POLICY AND PROCEDURES ON SEXUAL HARASSMENT

Policy

Bucknell University is committed to maintaining an academic environment in which members of its community can pursue their academic and professional activities of teaching, learning, and research. This environment cannot thrive unless each member is accepted as a discrete individual and is treated civilly, without regard to his or her sex or sexual orientation or any other factor irrelevant to participation in the life of the University.

The University is committed to providing such an environment, free from all forms of harassment and illegal discrimination, including sexual harassment. Sexual harassment compromises the integrity of the University, its tradition of academic freedom and learning, and the trust placed in its members. Bucknell will work to eliminate sexual harassment on campus, and the University intends to take all necessary actions to prevent, correct, and, where appropriate, discipline sexual harassment.

Sexual harassment, whether between people of different sexes or the same sex, includes unwelcome sexual advances, requests for sexual favors, and other verbal 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 participation in an academic program;
- (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting that individual, including, for example, grades, pay, promotions and transfers; or
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creates an intimidating, hostile or offensive working or educational environment and has no legitimate relationship to the subject matter of a course or academic research.

As an academic community committed both to the elimination of sexual harassment and the free and open exchange of ideas, this policy is intended to foster an environment permitting full participation by all of its members, while not inhibiting the robust and open pursuit of ideas and freedom of speech. Nonetheless, members of the community should understand that a standard of respect, civility and tolerance should shape our interactions, regardless of whether particular conduct constitutes "sexual harassment" or not. Certain types of behavior may be inappropriate even though not illegal; speech can be offensive even though allowed.

Sexual harassment may take many forms. Some are overt and unambiguous, while others may be more subtle and indirect. Direct forms of sexual harassment include sexual advances accompanied by an offer of reward or a threat of reprisal. Such behavior constitutes serious misconduct, and a single incident establishes grounds for disciplinary action. Other forms of sexual harassment may include sexual advances, physical or verbal, or other severe or repeated conduct of a sexual nature that the harasser knows is unwanted (such as stalking). Sexual harassment between peers is also prohibited by this policy.

The University encourages the reporting of all perceived incidents of sexual harassment. Supervisors, department chairs, and deans who may receive complaints alleging sexual harassment are expected to consult with the Director of Personnel Services or the Affirmative Action Officer to insure that the University's response is prompt, effective and consistent with this policy. Complainants are assured that their reports will be handled with discretion and in a manner

intended to preserve their privacy as much as possible, subject to the University's obligation to respond promptly and effectively to all instances of sexual harassment. The University also prohibits threats or acts of reprisal against anyone who initiates a report or complaint of sexual harassment in good faith.

Procedure

Without feeling constrained by specific definitions, individuals who believe that they have experienced sexual harassment in their educational or work environment should discuss the problem and options for resolution with a dean, supervisor, Director of Personnel Services, Director of the Women's Resource Center, one of the University Chaplains or the Affirmative Action Officer.

For example, one option the individual could pursue would be to ask one of these persons to assist in speaking to the individual complained about in an informal way. In many instances, informing the person whose behavior is objectionable about the particular conduct and why it is unwelcome effectively stops the behavior and aids in educating the person about the University's policy and its application.

If such informal consultation does not resolve the matter, or if the individual complaining prefers, he or she may make use of any of the following three internal avenues for resolution: mediation, informal investigation and resolution or a formal hearing. (Of course, an individual is also free at any time to file a complaint with a governmental agency with jurisdiction over the alleged misconduct.) While there is no strict time limit for bringing an internal charge of sexual harassment forward, it is expected that the aggrieved person will bring such a charge as soon as possible and, ordinarily, within one year of the conduct. The University has an obligation to take prompt and effective action in response to sexual harassment, and therefore the University reserves the right to investigate and take action independently in particularly serious matters, regardless of the private wishes of the parties. The University may also take appropriate action pending the outcome of any of these processes to protect any of the parties or witnesses, to preserve evidence or to protect the safety, security and other interests of the University and the University community more broadly.

A. Mediation

The aggrieved person, or the respondent after he or she receives notice of the aggrieved person's complaint, may request a mediated resolution between the aggrieved person and the respondent. Participation of both the aggrieved person and the respondent is voluntary. The goal of the mediation procedure is to provide a forum where the aggrieved person and the respondent can, with the aid of a third party, come to a mutually agreed upon resolution. If such a mutually agreed resolution is not reached, either of the parties may decide to use one of the other avenues for resolution below. (At the same time, if the parties are pursuing one of the other avenues for resolution, they may also opt at any time to seek mediation to resolve the matter.) The mediator will be a dean, the Director of Personnel Services, one of the University Chaplains, the Affirmative Action Officer or any other member of the faculty or administrative/professional staff agreed to by the parties. If the University and the parties agree, an external mediator may also be used. The mediator, in consultation with the parties, will establish the timetable for seeking resolution and the process to be followed. The mediator will report any resolution of the matter to the Affirmative Action Officer.

B. Informal Investigation and Resolution

The aggrieved person may also request that an informal investigation be performed under the direction of the Affirmative Action Officer or Director of Personnel Services. (If either of these individuals is not able to perform such an investigation for whatever reason or if the President decides that additional resources or expertise are needed for a particular investigation, the President may designate another individual or other individuals to perform or aid in such an investigation.)

The purpose of the informal investigation is for the University to attempt to learn the facts surrounding the complaint as promptly and effectively as is reasonable under the circumstances, and, utilizing those findings and conclusions, to take action that the University believes appropriate.

Ordinarily, after a preliminary discussion between the complainant and the investigator, the complainant will be requested to put his or her complaint in writing and to supply all material or evidence he or she may have in support of his or her complaint. A summary of the complaint will be shared with the respondent, who ordinarily will also be asked to respond in writing with all material and evidence to support his or her position. A summary of the response will be shared with the complainant, who will have an opportunity to provide a reply, again ordinarily in writing. The investigator may interview the parties or other witnesses as part of the investigation. Since there is no one way to do an investigation, the investigator may vary or add to this process as he or she sees fit in order to achieve an outcome that he or she believes is reasonably prompt, fair and effective.

After the investigation is concluded, the investigator will advise the complainant and respondent of the investigator's conclusions. If the investigator believes that disciplinary or remedial action should be taken as a result of the investigation, he or she will report the results of the investigation and the proposed action to the Vice President for Academic Affairs (for faculty), to the Vice President for Finance and Administration (for administrative, professional or support staff) and/or to the Dean of Students (for students). The particular Vice President or Dean of Students will decide upon the appropriate sanction or action in light of the investigator's findings and conclusions. (For instance, in lieu of acting unilaterally, the Dean of Students may refer the matter to a formal disciplinary hearing under the student disciplinary process.) The decision of the Vice President or Dean of Students shall be final, except that decisions to terminate employment or suspend or expel a student may be reviewed by the President, and, in the case of faculty, must be reviewed by the President.

Either the complainant or the respondent may opt for a formal hearing, as provided below, but such a request for a hearing must be made prior to the final action of the Vice President or Dean of Students.

C. Formal Hearing

Either the complainant or the respondent may seek resolution through a formal hearing process. If the respondent is a student, the hearing process to be followed will be either that for *Sexual Assault Adjudication* or that for *Student Code of Conduct* violations, depending upon whether the conduct alleged may also constitute sexual assault within the meaning of the sexual assault policy. If the respondent is a non-faculty employee, the Office of Personnel Services will utilize its employee hearing protocol.

If the respondent is a faculty member, the President and Chair of the Faculty shall confer and discuss which faculty members might be appointed to serve on a hearing panel. After such discussion, the President shall designate three faculty members and one alternate to constitute a hearing panel. The Affirmative Action Officer shall sit with the panel to assist it in its functions, but will not vote. The panel shall be provided with the complainant's written complaint and attachments, the respondent's written response and attachments, the complainant's written reply (if any) and attachments, and any other documents or materials submitted by the parties or by the investigator under (B) above if an informal investigation occurred in whole or part. The panel shall interview the complainant, the respondent, and any other witnesses with knowledge about the matter whom it believes will aid it in coming to a decision on the complaint (including, if it wishes, the investigator), and shall also review relevant documents. Ordinarily, both the complainant and the respondent shall be allowed to be present when the panel is interviewing witnesses, and each may propose questions to the panel to be asked of witnesses (including each other), in the panel's discretion. The complainant and respondent may also be accompanied by an advisor selected from

the University community, provided, however, that the advisor shall not be an attorney. The proceedings will be kept confidential. The panel shall be free to supplement this process as it believes appropriate in order to assist it in determining the facts reasonably promptly, fairly and effectively.

The hearing panel shall determine the facts surrounding the complaint, including whether there is merit to the complaint, and forward its findings and recommendations to the President for review and action. The President, after reviewing the record before the panel and the panel's report and recommendations, may accept, reject, add to or modify the panel's recommended action and sanctions, if any.

Should the President conclude that termination of the faculty member's appointment may be an appropriate sanction after an informal investigation and resolution under (B) above or under the circumstances found by the panel after a formal hearing under (C) above, the process provided in Section III (M) of the Faculty Handbook shall be followed, but without the need for an informal inquiry by the Faculty Council. The Faculty Hearing Committee shall proceed under Section III (M) of the Faculty Handbook, but ordinarily it will not rehear or reopen the factual determinations made earlier in the process, but shall consider whether, in light of the facts found by the investigator or the panel, it would recommend termination as an appropriate sanction. The Faculty Hearing Committee will submit its report and recommendation to the President, who shall make the final determination according to the University's bylaws.

For any questions concerning this policy and the procedures, please contact the Affirmative Action Officer, the Director or Personnel Services, the Dean of Students or the Director of the Women's Resource Center.

(9/00)