

Guidelines On Discrimination Because Of Sex

1604.11 Sexual Harassment

a. Harassment on the basis of sex is a violation of Sec. 703 of Title VII (Civil Rights Act of 1964) and Title IX of the Education Amendments of 1972, as amended. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational program, (2) submission to or rejection of such conduct by an individual is used as the basis for employment or education decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile, or offensive working or educational environment.

b. In determining whether alleged conduct constitutes sexual harassment, the University will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.

c. Applying general Title VII and Title IX principles, the University is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the University and regardless of whether the University knew or should have known of their occurrence.

d. With respect to conduct between fellow colleagues and co-workers, the University is responsible for acts of sexual harassment in the workplace where the University (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action. Conduct between students is addressed in the *Code of Student Life*.

e. The University also may be responsible for the acts of non-employees, with respect to sexual harassment of UND employees in the workplace or students in an educational setting where the University (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate corrective action.

f. Consensual Relationships

1. The University of North Dakota discourages consensual relationships, i.e., amorous, romantic, or sexual relationships, between faculty and students, staff and students, supervisors and subordinates, and students who have an authority relationship over other students. This policy is in effect when one individual has a control, power, authority, or responsibility position over another. UND expressly prohibits any form of sexual harassment of employees and students when a previous consensual relationship ceases to exist or such a relationship is rejected by one of the parties.

2. If the parties do engage in a consensual relationship as defined above, the person in the authority position is obligated to report the relationship to his or her department head or supervisor immediately. Failure to report the relationship or any significant delay in reporting may be cause for disciplinary action. Documentation of the reporting and any subsequent actions taken by the department head or supervisor, such as advising the parties of the potential for sexual harassment charges if the relationship ends, is required.

Definitions

Sexual harassment is ...

- ◆ Any unwelcome sexual advances
- ◆ Requests for sexual favors
- ◆ Verbal or physical conduct of a sexual nature

Hostile environment is . . .

- ◆ Unwelcome and pervasive or continuous harassment, which creates an intimidating, hostile, or offensive environment.

Examples of sexual harassing conduct or behavior

This list provides examples of improper sexual harassing behavior, but it is not inclusive of all conduct, which is prohibited by these guidelines.

- Repeated offensive sexual flirtations, advances, or propositions
- Continual or repeated verbal abuse of a sexual nature
- Graphic verbal comment about an individual's body
- Sexually degrading words, to describe an individual
- Display in the workplace or in public areas of sexually suggestive objects or pictures
- Subtle pressure or requests for sexual activity
- Unnecessary touching of an individual, that is patting, pinching, hugging, repeated brushing against another employee's body or touching their clothing
- Requesting or demanding sexual favors accompanied by implied or overt threats concerning an individual's employment or educational program status.
- Requesting or demanding sexual favors accompanied by implied or overt promise of preferential treatment with regard to an individual's employment or educational program status
- Physical assault

Questions concerning the applicability of these guidelines to specific situations or incidents should be directed to the Affirmative Action Officer. Grievance procedures for complaints of discrimination are outlined in the Code of Student Life, Faculty Handbook, Administrative Manual, and in brochure form, which is available from the Affirmative Action Office. University policy on equal opportunity and non-discrimination is in effect. This policy includes sexual harassment under the sex discrimination guidelines. Title IX, Education Amendments of 1972, covers students in federally assistant programs.

Sally J. Page, Affirmative Action Officer, 101 Twamley Hall, 777-4171