

New Jersey Institute of Technology's
SEXUAL HARASSMENT POLICY & PROCEDURES

- P O L I C Y -

Policy Statement:

Sexual Harassment is a form of gender-based discrimination which violates federal and State law as well as New Jersey Institute of Technology's (hereinafter "university") policy prohibiting discrimination on the basis of gender. It is forbidden by the university and it is inexcusable regardless of circumstances. Transgressions and supervisory condonation of such transgressions will result in disciplinary action, up to and including termination. This Policy applies to faculty, staff and university officers equally as described below.¹ Further, its mandate shall, to the extent contractually feasible, be applied fully to contractually affiliated entities at the university.

Proscribed Conduct:

There are currently two (2) distinctly recognizable and forbidden forms of sexual harassment, both of which constitute conduct, that may result in termination.

1. Quid Pro Quo Harassment: This harassment is an intentional, intolerable exploitation of a position of power and authority such as unwelcome sexual advances, requests or demands for sexually based favors or other gender based verbal or physical conduct where submission to or rejection of such conduct by an individual is used, by the person(s) in a position of power or authority, as a basis for employment, academic or institutional environment decisions affecting such individual.

2. Hostile Environment Harassment: This harassment arises where one or more members of the university community engage in gender based conduct that unreasonably creates an intimidating, hostile or offensive working and/or study environment that has the effect of altering one's work and the conditions of employment at the university. It may arise independent of the supervisor/subordinate and the conduct need not be overtly sexual in nature but merely gender differentiating. As a general guiding principal established herein,

¹ All matters relating to complaints of sexual harassment and sexual misconduct involving students, as well as investigations and procedures pertaining to sexual harassment and sexual misconduct of such complaints under Title IX are addressed in a separate policy.

no gender based actions that are not specifically and officially endorsed by the university (e.g.; separate rest room facilities) are authorized or condoned. Currently, as established under controlling case law interpretation of both state and federal laws, hostile environment sexual harassment consists of conduct that; (1) would not have occurred but for the victim's gender and (2) is sufficiently severe or pervasive as (3) adjudged by a reasonable person (of the same gender as the victim under New Jersey law) to (4) create a hostile, intimidating, abusive or offensive working environment, adversely affecting a victim's work or other conditions of employment. The university will continue to provide education and training to faculty, and staff on identifying illegal and intolerable conduct rising to the level of sexual harassment.

Enforcement:

The university will fully investigate all charges of sexual harassment filed in writing with the intake office designated in this Policy and render a deliberative finding, taking immediate corrective action in cases where the record warrants university action. Individuals found to have engaged in such misconduct shall be accordingly disciplined. This misconduct is grave on its face and may result in termination. Supervisory personnel who witness what they believe is harassing conduct of subordinates or colleagues or are in receipt of formal or informal allegations of such conduct are obligated to report such conduct to the university through the procedures detailed below. All employees who witness or have tangible evidence of potentially harassing conduct are responsible to cooperate fully and honestly with the university in its investigation of such alleged conduct. Failure to do so impedes the university's search for facts necessary for appropriate determination and, in itself, may lead to discipline. Employees who fully, honestly and forthrightly cooperate with the university in its investigation and the enforcement of this Policy shall be deemed to be operating within the scope of employment as set out in the university's indemnification policy.

Education and Training:

As a necessary, proactive measure of policy integrity and enforcement, the university provides mandatory education and training for members of the university community to ensure understanding and appreciation of the policy, the laws as amended and re-interpreted from time-to-time, which serve as a basis for this Policy and its proscriptive measures, and the Procedures. This education and training will be coordinated through the university's Office of Human Resources and provided by or through formally designated members of the university community with knowledge of the laws and this Policy's parameters. Information regarding provision of university education and training on sexual harassment as well as information and guidance as to this Policy and its procedures may be obtained from the Office of Human Resources. Specific questions relative to the law of sexual harassment, should be directed to the university's Office of General Counsel. Additionally, guidelines as to policy application may be found on the Office of Human Resources webpage (site or address of link).

Confidentiality:

While all reasonable efforts will be made to respect the confidentiality of all parties associated with evidence of sexual harassment charge(s), the university is obligated to address fully all charges of such conduct and cannot guarantee total confidentiality. A thorough investigation, including discussing witnesses' accounts and confronting the accused will often transpire. A charge of sexual harassment is most serious, cannot and will not be taken lightly, and cannot and will not be "off the record".

Retaliation:

Retaliatory action under any and all circumstances taken against an individual who files a complaint of sexual harassment honestly and in good faith, or who is cooperating with the university's investigation into such allegation, is prohibited and may result in termination.

Malicious Allegations/Actions:

False charges of sexual harassment made knowingly or with wanton reckless disregard for the truth and veracity of the charge, shall be considered malicious charges and are not within the scope of anyone's employment. The University reserves the right to impose sanctions against the accuser. Repeated filing of frivolous charges will be considered reckless disregard for the truth and veracity of such charges. Neither failure to substantiate a sexual harassment charge nor a university finding that sexual harassment did not occur, in and of itself, constitutes malicious charge(s).

Election of Remedies:

Neither this Policy nor its associated Procedures preclude the accuser from filing charges with any external agency or otherwise seeking redress pursuant to law. At such time, or at any stage of the process, the agency charges will be handled directly by the university's Office of General Counsel, but shall otherwise continue to operate through to resolution as set out under "PROCEDURES" below.

- P R O C E D U R E S -

The university's sexual harassment policy must be adhered to by all members of the university community. Any employee who honestly feels subjected to or has witnessed sexual harassment, as outlined in the policy and elaborated upon in educational sessions provided by the university, should immediately report the conduct to the university designated intake agent(s) as follows:

1. Employees report the conduct to the Office of Human Resources.
2. Should the allegations involve personnel in the Offices of Human Resources, the matter shall be reported to Office of General Counsel.