

MARQUETTE UNIVERSITY
SEXUAL HARASSMENT POLICY
Updated February, 2007

Marquette University is committed to maintaining an environment in which the dignity of each member of its community is respected. Sexual harassment, by, or of, either sex is prohibited by faculty, administrators, staff, students or other individuals who may be present on Marquette's campus or in any other location for a Marquette-sponsored activity. It is also prohibited to retaliate in any way against an individual who has initiated a sexual harassment complaint. The University maintains a "zero-tolerance" stance toward sexual harassment and will address and investigate all complaints in a timely, comprehensive and equitable fashion. Violators of this policy will be subject to appropriate corrective and disciplinary action, up to and including separation or termination from the University.

Academic and non-academic management and supervisory personnel, at all levels, are responsible for taking reasonable and necessary action to prevent sexual harassment. All members of the University community, faculty, administrators, staff, and students, are required to promptly report, pursuant to these policies and procedures, conduct that could be in violation of this policy.

The University will (1) respond to every formal and informal complaint of sexual harassment reported; (2) take action to provide remedies when sexual harassment is discovered; (3) impose appropriate sanctions on offenders in a case-by-case manner; and (4) protect the privacy of all those involved in sexual harassment complaints to the extent it is possible.

WHAT IS SEXUAL HARASSMENT?

Sexual harassment is defined, within the workplace for employees and/or within the academic and/or residential experience for students, as any unwelcome sexual advances, demands, requests for sexual favors, innuendoes or any 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 education experience; or (2) Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual; or (3) Such conduct is sufficiently severe and pervasive so as to alter the conditions of, or have the purpose or effect of substantially interfering with, an individual's work or academic performance by creating an intimidating, hostile, or offensive working or educational environment.

Harassment does not include verbal expressions or written material that is relevant and appropriately related to course subject matter or curriculum, and this policy will not abridge academic freedom. Bona fide "consensual" relationships likewise will not be considered harassment under the intent of this policy.

CONFIDENTIALITY

The University will protect the privacy of all those involved in sexual harassment complaints to the extent it is possible. The University will, to the extent permitted by law, keep confidential all records of complaints, responses and investigations. Allegations of sexual harassment will not be placed in personnel files unless, after appropriate investigation, such allegations have been sustained. Written records of complaints and all other materials relating to such complaints will be marked "CONFIDENTIAL" and will be retained in a separate and secure (locked) file by the Affirmative Action Officer.

OBLIGATIONS OF VIGILANCE AND REPORTING

The University can respond to specific instances and allegations of harassment only if it is aware of them. The University therefore encourages anyone who believes that he or she has experienced sexual harassment to promptly come forward with inquiries, reports or complaints and to seek assistance from the University. In addition, any University employee who becomes aware of instances or allegations of sexual harassment by or against a person under his or her supervisory authority must report it to a University official charged with responding to such allegations and reports: (1) The Affirmative Action Officer; (2) The Associate Vice President of Human Resources; (3) The Dean of Student Development; (4) The Assistant Provost for Operations; (5) The Chief of Public Safety; or (6) The complainant's supervisor.

Reports/complaints received in any of these offices in which the alleged offender is an employee (faculty, administrator, staff or student employee) must, in turn, be immediately reported to the Affirmative Action Officer. Reports/complaints received by any of these offices in which the alleged offender is a student (other than students accused in their capacity as employees) must, in turn, be immediately reported to the Dean of Student Development, who will process such complaints pursuant to the procedures set forth in the Student Handbook, *At Marquette*, and not pursuant to the following procedures. Reports/complainants in which the alleged offender is neither a Marquette employee nor student (e.g., vendors, visitors, etc.) will be processed consistent with any other complaint by notifying one of the reporting officials above, although the university reserves the right to alter or modify the procedures, in its sole discretion, in order to effectively handle these complaints.

INFORMAL OPTIONS OF ADDRESSING SEXUAL HARASSMENT

Any employee or student with a sexual harassment concern or question may contact the Affirmative Action Officer for counsel and assistance. Reports/complaints may be pursued by informal means instead of, or before, a formal complaint is filed. If an informal procedure is ineffective, the formal procedures will remain open to the complainant. The following informal options can be used. (1) An employee or student can communicate verbally with the person whose behavior is unwelcome by indicating that it will in no way be tolerated. (2) An employee or student can communicate in writing, with the person whose behavior is unwelcome by providing a factual description of the incident(s) including date, time, place, specific action, the writer's feelings, consequences, and request that the behavior cease. **Frequently, such communication will cause the unwelcome behavior to stop, particularly when the person may not be aware that the conduct is unwelcome or offensive.** (3) An employee or student

can ask the person's supervisor or the Affirmative Action Officer to speak to the person whose behavior is unwelcome with the intent and expectation that the unwelcome behavior will cease and the matter thus resolved.

The above-outlined informal options may be explored and implemented when a concern or complaint is presented to the Affirmative Action Officer and the person reporting the matter expresses a clear desire to pursue the matter through an informal process, or is uncertain as to whether he/she wishes to be handled informally or formally. However, when the Affirmative Action Officer, or other appropriate university official, determines that the seriousness or urgency of the allegations and information being presented exceeds the bounds of the informal options, the university has the sole prerogative of treating it as an official matter of record and handling the complaint or allegations in a manner determined to be in the best interest of all parties, including the university as the employer. This may or may not include a full formal investigation, as outlined below, but will be at the discretion of the university as to how the matter is to be properly addressed and resolved.

INVESTIGATION OF SEXUAL HARASSMENT FORMAL COMPLAINTS

Unless otherwise provided herein, responsibility for the investigation of sexual harassment complaints in which the alleged offender is an employee (faculty, administrator, staff or student employee) will be with the Affirmative Action Officer ("investigator"). Responsibility for the processing of sexual harassment complaints in which the alleged offender is a student will be with the Office of Student Development. The Provost and/or the Senior Vice President has the authority to appoint an alternate investigator as circumstances require and in his/her sole discretion, such as when a substantial conflict of interest is alleged by the complainant, alleged offender or investigator. In the event a request for an alternate investigator is made and/or an alternate investigator must be appointed, the specific time lines provided in the policy will be suspended pending that appointment.

Complaints will be addressed as confidentially as possible, considering the specific circumstances of the allegations, to protect the rights of both the complainant and the alleged offender. The investigator may gather information from any sources deemed necessary in an effort to fully investigate and resolve the complaint.

Complaints must be delivered by the complainant to one of the reporting officials referenced above. The formal complaint must be filed as soon as possible after the alleged incident occurred or after attempts to resolve the situation informally have been unsuccessful.

The complaint must be in writing, signed and dated by the complainant, and should include the following information:

- Details concerning the incident(s) or conduct giving rise to the complaint.
- Dates and location of incident(s).
- Any witnesses to the alleged incident(s) or conduct.
- Action(s) requested to resolve the complaint.

Upon receipt of the complaint, the investigator will provide a copy of the complaint to the Senior Vice President and the Provost. Each alleged offender will be provided with a copy of the complaint by the investigator within three (3) business days of the investigator's receipt of said complaint. The investigator will notify the supervisor of the alleged offender regarding the complaint, in order that the supervisor may take appropriate interim and/or remedial actions during the investigation. (Example: temporary assignment, paid leave of absence, separation of the complainant and alleged offender.)

The alleged offender will be given an opportunity to submit a written response to the complaint within five (5) business days of receipt of a complaint. A copy of the response will be provided to the complainant, the Senior Vice President and the Provost by the investigator.

The investigator will interview the complainant and the alleged offender and may also, at his/her discretion, interview witnesses, supervisors, and/or any other persons who may have information about the alleged incident. He/she may review personnel or other records relevant to the complaint. The complainant and the alleged offender will be permitted to suggest witnesses and/or other evidence, which will be considered by the investigator. A record will be kept of all individual interviews.

Within thirty (30) business days of receiving the formal written complaint, the investigator will assess whether a violation of the policy has occurred and will submit findings in writing to the complainant, the alleged offender, his/her immediate supervisor and the Senior Vice President and the Provost. The investigator must find by a preponderance of the evidence (that it is more likely than not) that the alleged sexual harassment has occurred in order to hold the alleged offender responsible for such conduct.

If sexual harassment was found to have occurred, the supervisor of the alleged offender will be responsible for acting on the findings of the investigator. The investigator and the Senior Vice President or the Provost, depending on the alleged offender's reporting line, should be consulted regarding disciplinary decisions.

In making a decision regarding discipline, the supervisor and the Provost or the Senior Vice President, depending on the alleged offender's reporting line, should consider previous conduct, the seriousness of the violation and any other information pertinent to this decision. Where a pattern or practice of sexual harassment exists or prior complaints of sexual harassment have been confirmed, the supervisor should consider the totality of information in determining appropriate discipline. These individuals may also review any part of the investigative records. Appropriate discipline may range from an oral reprimand up to and including termination/dismissal for cause, or any other appropriate remedial action.

Within five (5) business days of receiving the investigator's finding that sexual harassment occurred, the supervisor should meet with the alleged offender to discuss the findings and recommendations. This meeting may also include the Senior Vice President or the Provost, depending on the alleged offender's reporting line. Within five (5) business days of this meeting, the supervisor should issue a written notice of the appropriate disciplinary action to the alleged offender. The supervisor will provide a copy of the notice of disciplinary action to the

investigator and the Senior Vice President or the Provost, depending on the alleged offender's reporting line. The investigator will, in turn, notify the complainant that the complaint has been handled and that disciplinary action has been imposed.

All deadlines indicated above may be altered at the discretion of the investigator and/or supervisor for good cause.

APPEAL OF COMPLAINT RESOLUTION/DISCIPLINARY ACTION

Either the complainant or alleged offender may file an appeal of any decision concerning the resolution of the complaint. An appeal should be delivered to the Senior Vice President or the Provost, depending on the alleged offender's reporting line. An appeal by either party must be made in writing, within ten (10) business days of receipt of the notice of resolution/disciplinary decision.

The written appeal must state in detail the reason(s) for the appeal, explaining with specificity any alleged factual or procedural errors, any alleged issues concerning interpretation of university policy, any basis on which the disciplinary action is alleged to be improper and any new information or evidence, including an explanation of why such information or evidence was not presented during the investigation.

No disciplinary or other action based on the complaint will be taken against the alleged offender during the appeal process, although temporary, interim measures may remain in place.

The Senior Vice President or the Provost, whoever is handling the appeal, will review the materials gathered and utilized by the investigator and the supervisor(s) in reaching his/her decisions with regard to responsibility and disciplinary action. At his/her sole discretion, the Senior Vice President or the Provost may interview the alleged offender, the complainant, and/or any additional witnesses. Within ten (10) business days of receipt of the appeal, the Senior Vice President or the Provost handling the appeal will issue a written decision and that decision will be final.

All deadlines indicated above may be altered for good cause at the discretion of the Senior Vice President or the Provost handling the appeal.

DISSEMINATION OF POLICY

The policy will be made available to all employees and students. Periodic notices sent to students, employees, and supervisors about the university's sexual harassment policy will include information about the complaint procedure and will refer individuals to designated offices/officials for additional information. The university reserves the right to modify and/or amend any or all of the procedure(s) outlined herein at any time, in its sole discretion. In the event the university determines that circumstances warrant modification/amendment of any part of these procedures, timely notice of same will be delivered, in writing, to all relevant and affected parties.