

Cheyney University Policy SE-2010-6001

Policy on Sexual Harassment

Approved by: Social Equity Council/ President's Council

History: Revised -- 12-9-2010

Related Policies: n/a

Additional References: n/a

Purpose

To address the topic of sexual harassment and establish procedures for processing allegations by faculty, staff, students and visitors who feel they have been subjected to sexual harassment. Cheyney University is committed to creating an environment free of sexual harassment for all its employees and students.

Harassment

Harassment of one person by another is defined as unwelcome acts or conduct of an offensive nature. It is harassment if the action or conduct is unwelcome to the recipient and is humiliating, offensive or intimidating to that person in relation to: gender, marital status, family status, religious belief, age, sexual orientation, disability or race.

Background

Cheyney University specifically prohibits sexual harassment. Any faculty member, staff employee or student found to have violated the university policy against sexual harassment will be subject to immediate and appropriate disciplinary action including, but not limited to, possible suspension or termination.

No employee or student shall suffer retaliation for the filing of a sexual harassment complaint in good faith against another university employee/student, and steps will be taken by the university to ensure that retaliation does not occur. However, knowingly filing a false/malicious complaint will result in disciplinary action.

Definition of Sexual Harassment: The term "sexual harassment" may be used to describe a wide range of behaviors, between students, employees, or between students and employees. The Equal Employment Opportunity Commission (EEOC) guidelines below describe these behaviors. It is within this context that Cheyney University references "employment", "work" or "education" to include "the entire range of academic and non-academic functions of the university community." Cheyney University has modified the EEOC's definition of sexual harassment to include students; therefore:

"Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when: Submission to such conduct is made either explicitly or implicitly a term or condition of employment or a favorable course grade; Submission to or rejection of such conduct by an individual is used as a basis for employment decisions or grades affecting such individuals; or Such conduct is sufficiently severe or pervasive as to unreasonably interfere with an

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individual's work performance or creating an intimidating, hostile or offensive working, educational or residential environment.

The EEOC's definition of sexual harassment is hereby modified to include students and is adopted by Cheyney University. The behavior, as noted above, is specifically prohibited by all students.

Counseling will be available to any employee or student who files a sexual harassment complaint, if he/she desires and requests such counseling.

Procedure

The question of determining what constitutes sexual harassment shall be determined from the perspective of whether the person filing the complaint was affected by the actions of the person who is alleged to have committed the sexual harassment. The person filing the complaint.

Any student who believes this policy has been violated should:

- Say "no" to the offender and relay the message that the individual's behavior is disapproved and ask that such behavior cease; If such behavior does not cease, keep a record of the harassment including dates, times, places, etc.
- Keep copies of any notes, cards, etc; and
- Obtain witnesses, co-workers, students, etc.

However, the failure to do any of these things will not necessarily result in a finding that no sexual harassment occurred.

In accordance with principles of academic freedom, course content and teaching methods remains the preview of individual faculty members. At the same time, faculty members shall refrain from classroom behavior that focuses attention on sexual characteristics in a context, which would otherwise be irrelevant.

Related Unprofessional Conduct

A university employee with professional responsibility for a student has real or potential power and authority over that student in a variety of roles including, but not limited to, instruction, advisor, coach, work-study supervisor, committee member, etc. Such employee shall not abuse that power. Absent contradictory evidence, amorous and sexual relationships between a student and an individual with professional responsibility for that student, are presumed to be exploitative and constitutes unprofessional conduct. The consensual nature of such a relationship does not necessarily constitute a defense to a charge of sexual harassment or related unprofessional conduct.

Informal Complaint

Any student or employee, who cannot resolve the harassment as noted, may seek to resolve the problem informally prior to filing a formal written complaint outlined below. They may communicate the problem to the Director of Social Equity, designated by the President, located in the Wade Wilson Administration Building, and request advice and/or assistance in resolving the problem informally. As much as possible, such discussions shall remain confidential.

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Formal Complaint

A student or employee, who believes this policy has been violated, may file a formal written complaint directly with his/her immediate supervisor, the university administration (i.e., President and Provost and Vice President of Academic and Student Affairs, Vice President for

Finance and Administration; Social Equity Director), as well as the Office of Public Safety, Faculty Member or Student's Advisor. The Director of Social Equity will be notified immediately of any complaint(s), who, in turn, will notify the President. Any member of the university community who attempts to interfere with, restrain, coerce, discriminate against, or harass (overtly or covertly) any individual responsibly pursuing a complaint of sexual harassment will be subject to prompt and appropriate disciplinary action.

Resolution

Any person found to be violating said policy would be subject to prompt and firm disciplinary action, as determined by the Director of Social Equity. Such discipline may range from reprimand, letter in personnel file, to dismissal or expulsion.

Appeal Process

Either party who disagrees with the investigative finding(s) of said complaint has the opportunity to appeal such decision to the university president and the President's Council.

Other Rights and Penalties

By law, any employee or student may seek other relief to which he/she is entitled. If circumstances of the complaint warrant, the director of social equity will make recommendation to the president to alleviate the situation while the complaint is being resolved.

Additional Locations to File Sexual Harassment Complaint(s)

Equal Employment Opportunity Commission
Office of the Chancellor
Pennsylvania Bureau of Civil Rights
Pennsylvania Human Relations Commission
State and Local Law Enforcement Agencies
State Employees Assistance Programs

CONFIDENTIALITY

In the interest of maintaining confidentiality, only parties to the complaint (i.e. complainant, respondent, witnesses, etc.) will participate in the investigation. Details of the complaint, as well as the names of the individuals connected to the investigation, will be disclosed only if necessary to protect the rights of any party involved or as otherwise required by law or collective bargaining agreement.

DEFINITION OF SEXUAL HARASSMENT

Sexual advances, requests for sexual favors, and/or other verbal or physical conduct that is pervasive or severe may constitute sexual harassment when:

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1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement; or
2. submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such an individual;
3. such conduct has the effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or academic environment.

This policy applies to all individuals on campus regardless of gender or sexual orientation. Men may not sexually harass women, women may not sexually harass men, women may not sexually harass women, and men may not sexually harass men.

RESPONSIBILITIES

Each dean, department chairperson, and/or administrative supervisor is responsible within his/her respective area for the implementation, dissemination, and explanation of this policy. Assistance in accomplishing these tasks may be obtained by contacting the Office of Social Equity. It is the obligation of each student, faculty member, and staff member to adhere to this policy.

FALSE COMPLAINTS

Any person who knowingly files a false complaint of sexual harassment may be subject to disciplinary action, including dismissal from the university.

THE UNIVERSITY PROCEDURE

STEP 1: All charges of sexual harassment should be referred to the Office of Social Equity.

In order to ensure the effective handling of all incidents of sexual harassment, this policy requires that all such reports be directed to the same office on campus, namely the Office of Social Equity. At this first stage of the procedure, the individual or individuals who alert(s) the Office of Social Equity of a possible sexual harassment incident might not be the actual complainant(s).

A potentially aggrieved party may bring a complaint of sexual harassment to a supervisor, department chair or dean, who, in turn, shall refer the complainant to the Office of Social Equity.

In the event there are two or more complainants and/or two or more persons (respondents) accused of sexual harassment in the same set of circumstances, the Director of Social Equity or his/her designee within the Office of Social Equity, will decide whether the complaint will be handled jointly or separately. For purposes of this document, the phrases "the complainant," "the accused" and/or "the respondent" may be plural.

The role of the Director of Social Equity, or his/her designee within the Office of Social Equity, in this procedure is to serve as a fact finder. The Director of Social Equity, or his/her designee within the Office of Social Equity, must act in such a manner as to ensure that all parties to a sexual harassment complaint are protected by appropriate due process and confidentiality. Should the Director of Social Equity be

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accused of sexual harassment, the Provost will act in his/her place. Should the University President be accused of sexual harassment, the matter will be referred to the Pennsylvania State System of Higher Education, Office of the Chancellor.

STEP 2: The complainant meets with a representative from the Office of Social Equity.

The purpose of this meeting is to discuss the complaint and to gather information. At this initial meeting, the Director of Social Equity, or his/her designee within the Office of Social Equity, clarifies for the complainant whether or not the allegations may constitute sexual harassment. The Director of Social Equity, or his/her designee within the Office of Social Equity, then reviews the appropriate complaint procedure for the benefit of the complainant. Complainants are not required to file a written sexual harassment complaint.

STEP 3: The complainant will receive additional clarification regarding university procedures regarding the alleged sexual harassment and general information regarding counseling.

If requested by the complainant, the Director of Social Equity, or his/her designee within the Office of Social Equity, will provide general guidance for the complainant in order to:

- a) Clarify the nature of the alleged sexual harassment.
- b) Review the university's complaint procedure.
- c) Review the complainant's responsibilities of filing a written or oral complaint.
- d) Give guidelines for what a written complaint should contain, in the event the complainant chooses to file his/her complaint in writing.
- e) Apprise the complainant of counseling services offered through the CU Department of Guidance and Counseling for a student complainant or the State Employee's Assistance Program for an employee complainant.

STEP 4: The complainant files a complaint.

A complainant may file a complaint either orally or in writing. In the event that a complainant does not wish to file a signed complaint him or herself, the Director of Social Equity, or his/her designee within the Office of Social Equity, will prepare a written statement with the following information: the names of the complainant and the respondent, a short description of the alleged violation as stated by the complainant, and the date(s) of the alleged harassment. Whether the complainant submits a written complaint or the Office of Social Equity prepares a written statement, the allegations will be investigated.

STEP 5: The Director of Social Equity must decide on an appropriate course of action regarding the complaint.

There are two possible courses of action following the filing of a complaint:

- a) Based on the complainant's written or spoken account of alleged harassment, the Director of Social Equity, or his/her designee within the Office of Social Equity, determines there is insufficient reason to proceed with a complaint and counsels the complainant regarding this decision. In this case, the investigation would stop at this point and the complainant would be notified of the decision of the Office of Social Equity.

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- b) Based on the complainant's account of alleged harassment and a finding of sufficient reason to proceed, the Director of Social Equity, or his/her designee within the Office of Social Equity, will promptly initiate an impartial fact-finding investigation of the reported sexual harassment.

STEP 6: The accused is notified of the complaint.

Absent unusual circumstances, within 21 calendar days of a complaint being filed, the Office of Social Equity will notify the respondent that a complaint of sexual harassment has been filed against him/her. Depending on the circumstances, the respondent will be notified either orally or in writing. If the notification is in writing, for reasons of confidentiality, the notification will be mailed to the respondent's home address, unless the respondent is a student who resides on campus. Furthermore, if the notification is in writing, it will be sent by certified mail so that only the respondent can sign for it personally.

STEP 7: The Director of Social Equity meets with the respondent.

Absent unusual circumstances, within 14 calendar days of having received notification of the complaint, the respondent must meet with the Director of Social Equity, or his/her designee within the Office of Social Equity, to discuss the complaint. The respondent will be given the opportunity to respond to the allegations and provide any and all defenses, as well as the names of any witnesses and/or documentation in his/her defense.

The University will take every precaution to protect the complainant and any witnesses from retaliatory action by the respondent. In fact, the respondent will be informed he/she is not to retaliate against the

complainant in any way nor against any other person connected to the complaint as that action may result in a separate disciplinary action. Further, the respondent will be informed he/she is not to communicate directly with the complainant regarding the claim of sexual harassment as this may be perceived as an attempt to discourage the complainant from pursuing the complaint. The Office of Social Equity will attempt to resolve the complaint informally. If the complaint is not resolved informally, a formal investigative process will follow.

STEP 8: The Office of Social Equity seeks to resolve the complaint and/or to mediate a solution.

The Director of Social Equity, or his/her designee within the Office of Social Equity, may choose to meet with the complainant, absent unusual circumstances, within 7 days of having met with the respondent. Upon meeting with the respondent and the complainant, the Director of Social Equity, or his/her designee within the Office of Social Equity, will seek to resolve the complaint. One of two outcomes is possible:

a) The Director of Social Equity, or his/her designee within the Office of Social Equity, is satisfied the respondent will make appropriate changes in his/her behavior. The Director of Social Equity, or his/her designee within the Office of Social Equity, meets with the respondent to counsel the respondent about resolution of the complaint (e.g. removing inappropriate pictures from a conspicuous location). A record of the resolution would be signed by the respondent and would be kept in the Office of Social Equity for three years. The Office of Social Equity will inform the complainant the matter has been resolved, without providing detailed information about the resolution.

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b) A mediated solution could be achieved which is satisfactory to the complainant and the respondent. A record of the resolution would be kept in the Office of Social Equity for three years.

STEP 9: Action by the University President and Final Disposition of the Complaint.

If the complaint cannot be resolved as set forth in Step 8, the Director of Social Equity, or his/her designee, will continue the investigation to its conclusion. A report containing any and all factual findings will be submitted to the University President or his/her designee. Upon receiving the report, the President or his/her designee, will decide what action will be taken, including, but not limited to, the dismissal of the complaint or the imposition of discipline. The decision of the President or his/her designee shall be final. All records of the formal process, including the decision of the President or his/her designee, will be kept in the Office of Social Equity for three years. In the event of an adverse ruling against the respondent, a copy of the decision of the President or his/her designee, shall be placed in the respondent's personnel file. The complainant will receive a letter from the Director of Social Equity stating there has been a resolution of the complaint, without providing specific details regarding the resolution.