



California State University, East Bay

## **Sexual Harassment Policy for Students**

## **Introduction**

Sexual harassment of students is prohibited by Title IX of the 1972 Education Amendments.

This current document represents the University's continuing efforts to create a harassment free educational environment where students and applicants for admission are well informed of their rights and responsibilities.

### **The CSU East Bay Sexual Harassment Policy and Guidelines**

California State University, East Bay reaffirms its policy to maintain an academic environment free of sexual harassment. It is the intent of the University to protect the dignity and promote the mutual respect of all students and those who apply for student status. Any behavior determined to constitute sexual harassment, pursuant to the policy, will be subject to disciplinary action. The following guidelines apply:

#### *1. Reporting:*

When an incident of alleged sexual harassment is reported, it shall be University policy to investigate the allegation and take timely corrective action in the event sexual harassment has occurred.

#### *2. Retaliation:*

An individual who alleges sexual harassment shall not for that reason be subjected to any reprisal, and the status of future academic matriculation of that individual shall not be affected. If an individual believes s/he has been subjected to retaliation, he should immediately inform CSUEB management.

#### *3. Unsubstantiated Reports:*

If an individual is accused of sexual harassment, and such accusation is subsequently determined to be unsubstantiated, the status or future employment or academic matriculation of the accused individual shall not be affected.

#### *4. Opportunity to Respond:*

The person against whom the allegations are made shall be informed of the allegations of the complaining party in a timely fashion, and given an opportunity to make a full response.

5. *Confidentiality:*

The right to full confidentiality of all parties involved in a sexual harassment charge shall be protected insofar as it does not interfere with the University's legal obligation to investigate allegations of misconduct and to take corrective action.

6. *Filing False Claims:*

Any person who knowingly and willfully files a false claim of sexual harassment against another person will be subject to corrective and/or disciplinary action from the University.

## **Definition of Sexual Harassment\***

Under Title VII of the 1964 Civil Rights Act, sexual harassment consists of unwanted sexual behavior that usually occurs in a context of differential power. The behaviors can be physical, verbal, nonverbal or visual. The courts recognize two types of sexual harassment, "economic" and "environment." "Economic" sexual harassment involves implicit or explicit requests for sexual favors which become a basis for employment or educational decisions. "Environmental" sexual harassment is more common and is behavior that has the effect of unreasonably interfering with the student's performance or creating an offensive, hostile or intimidating work environment.

The Equal Employment Opportunity Commission guidelines offer the following definition of sexual harassment:

**Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when,**

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

\*Adapted from EEOC "Guidelines on Discrimination Because of Sex", 29 CFR §1604.11.

Title IX of the Education Amendments of 1972 prohibits gender discrimination in all educational institutions and educational programs in non-educational settings that receive federal funds. The US Department of Education interprets protection from sexual harassment granted under Title VII and Title IX to be the same.

In **determining whether alleged conduct constitutes sexual harassment**, consideration should be given to the total circumstances, including the welcomeness of the act, the nature, frequency, pattern and severity of the alleged sexual harassment and the context in which it occurred. A "**reasonable person**" standard (of the person in the shoes of the alleged victim) will be used in evaluating whether or not sexual harassment has occurred and whether the alleged conduct unreasonably interfered with the complainant's work or academic progress.

Sexual harassment can occur between any two individuals regardless of gender, status, or academic relationship. Sexual harassment is a form of sex discrimination.

## **Examples of Sexual Harassment**

**Sexual harassment may include, but is not limited to the following unwelcomed behaviors: (List is not meant to be exhaustive)**

### **Unwelcomed Physical Behaviors**

- fondling, patting, kissing, grabbing
- assault
- deliberately obstructing the movements of someone wishing to escape
- unwanted attention

### **Unwelcomed Verbal Behaviors**

- Repeated questions about one's sexual behavior
- Repeated sexually oriented jokes
- Repeated sexually oriented comments about another's body and/or clothing
- Repeated conversations filled with sexual innuendoes and double meaning
- Repeated, unwelcome propositions for dates
- Demands for sexual intercourse
- Sexually explicit epithets, derogatory comments or slurs

### **Unwelcomed Requests for Sexual Favors**

- Sexual advances or propositions which suggest an academic benefit in exchange for sexual favors
- Repeated unwanted sexual propositions

### **Unfavorable Consequences for Failing to Submit to Any of the Above**

See the CSUEB Sexual Harassment Tutorial at <http://webapps.csuhayward.edu/public/odeo/tintro.cfm> for further guidance.

## **CSU East Bay Sexual Harassment Policy Implementers**

The following persons shall be responsible for implementing CSU East Bay's Sexual Harassment Policy for Students and ensuring a harassment free academic environment.

### **The President**

As chief administrative officer of the University, the President shall be responsible for ensuring that the University has updated sexual harassment policies. The President shall also designate persons to facilitate University policy.

### **Director, Employment Relations and Practices**

The Director, Employment Relations and Practices, the President's designee, shall oversee implementation of the University's sexual harassment policy for students, regularly review policies and procedures, and design training for campus constituents. The Director, Employment Relations and Practices has the primary responsibility for conducting sexual harassment investigations and maintaining confidential files. S/he shall consult with supervisors, the Director of Human Resources, the Vice President for Academic Affairs and the Vice President for Student Affairs when appropriate, especially when proposing sanctions for confirmed cases of sexual harassment. S/he will also consult with the University's Director of Public Affairs in matters involving the media.