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ATTACHMENTS TO THE LAW SCHOOL’S
SEXUAL HARASSMENT AND SEXUAL ASSAULT POLICIES

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1.1. Statement of Law School and University Policies

(a) Policy Statement

It is the policy of the University of Arkansas, including the School of Law, to provide an educational and work environment in which thought, creativity, and growth are stimulated, and in which individuals are free to realize their full potential. The University should be a place of work and study for students, faculty, and staff which is free of all forms of sexual intimidation and exploitation. Therefore, it is the policy of the University of Arkansas to prohibit sexual harassment of its students, faculty, administrators, and staff and to make every effort to eliminate sexual harassment in the University.

(b) Applicability

The University’s prohibition of sexual harassment applies to members of the University community, to visitors to the campus, and to contractors and others who do business with the University or who use University facilities. The policy prohibiting sexual harassment applies regardless of the gender of the harasser or of the person being harassed. The policy applies to sexual harassment which takes place in any relationship, including both those involving a power differential and those between peers, colleagues, and co-workers. The University policy prohibits sexual harassment between or among students, faculty, staff, and others visiting or conducting official business on campus, and in all areas of the University’s work and educational environments.

(c) General Applicability of the Laws

Sexual harassment of employees is a form of sex discrimination prohibited by Title VII of the Civil Rights Act of 1964. Sexual harassment of students is a violation of Title IX of the Education Amendments of 1972. These laws apply to both the University and to individuals. Those who engage in sexual harassment may be subject to legal consequences, including civil and criminal penalties and monetary damages.

(d) Rationale behind the Policy

Sexual harassment subverts the mission of the University and threatens the careers, educational experience, and well-being of students, faculty, staff, and visitors to the campus. In both obvious and subtle ways, sexual harassment is destructive to individual students, faculty, staff, and the academic community as a whole. Sexual harassment blurs the boundary between professional and personal relationships by introducing a conflicting personal element into what should be a professional situation. When, through fear of reprisal, a student, staff member, or faculty member submits or is pressured to submit to unwanted sexual attention, the University’s ability to carry out its mission is seriously undermined.
Sexual harassment is especially destructive when it threatens relationships between teachers and students or supervisors and subordinates. Through control over grades, salary decisions, changes in duties or workloads, recommendations for graduate study, promotion, and the like, a teacher or supervisor can have a decisive influence on a student’s, staff member’s, or faculty member’s career at the University and beyond. Sexual harassment in such situations constitutes an abuse of the power inherent in a faculty member’s or supervisor’s position.

(e) Special Prohibition on Sexual Assault

It is the policy of the University of Arkansas to prohibit sexual assault and to prevent sex offenses committed against students, employees, visitors to the campus, and other persons who use University facilities.

Sexual assault is an extreme form of sexual harassment. Sexual harassment is prohibited by University policy and is a form of sexual discrimination prohibited by Title VI of the Civil Rights Act of 1964 and by Title IX of the Education Amendments of 1972. Sexual assault is also a crime, defined by the Arkansas criminal code.

1.2. Definition of Sexual Harassment

(a) General Definition

Sexual harassment as defined by the U.S. Equal Employment Opportunity Commission and adapted to the academic environment consists of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or written communication of a sexual nature, regardless of where such conduct might occur, when

(1) submission to the conduct is made either implicitly or explicitly a term or condition of an individual’s employment with the University or of an individual’s academic status or advancement in a University program, course, or activity;
(2) submission to or rejection of the conduct by an individual is used as the basis for employment or academic decisions affecting that individual; and/or
(3) the conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creating an intimidating, hostile, or offensive working or learning environment.

Sexual harassment is distinguished from voluntary sexual relationships in that it introduces such elements as coercion, threat, unwanted sexual attention, and/or promises of academic or professional rewards in exchange for sexual favors. Sexual harassment is unwelcome behavior. Behavior that the courts have found to constitute sexual harassment is usually repeated or continues even after the individual makes it clear that it is unwanted.

Sexual harassment is often divided into two categories: (1) quid pro quo harassment and (2) harassment resulting from a hostile or abusive environment.

Quid pro quo harassment involves an explicit or implied exchange, that is, the granting or denial of a benefit or privilege in exchange for sexual considerations. The harasser uses submission to or rejection of the offensive conduct as the basis for decisions such as employment, promotion, transfer, selection for training, performance evaluation, or the basis for academic evaluation or recommendations.
Court decisions have established that a hostile or abusive working or learning environment may also constitute sexual harassment. While the exact definitions and limits of a hostile or abusive environment continue to be delineated by the courts, case law indicates that such an environment exists when the work place or educational environment is permeated by discriminatory intimidation, insults, and ridicule, such as sexual innuendos; uninvited sexual advances; sexually suggestive or discriminatory remarks; sexually suggestive or offensive signs, graffiti, or pictures; the use of sexually crude and vulgar language; etc. The U.S. Supreme Court has held that, to constitute sexual harassment, the offensive conduct must be sufficiently severe and pervasive that a reasonable person would find the conditions of the working or learning environment to have been adversely affected. The employee or student must also subjectively perceive the environment to be hostile or abusive. However, it is not necessary that an employee’s or student’s psychological well-being be seriously affected or that she or he suffer injury for a discriminatorily hostile or abusive environment to exist. One utterance of an offensive epithet does not by itself constitute sexual harassment. The Supreme Court has indicated that whether an environment is hostile or abusive can be determined only by looking at all the circumstances, which may include the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee’s work performance or a student’s learning.

(b) Protection of Academic Freedom

Works of art and literature, readings, and other written, auditory, or visual course materials which are used in an educational context, including classroom, academic offices, and all other learning environments, or which are part of academic or cultural programs, do not constitute sexual harassment, regardless of their sexual, erotic, suggestive, or vulgar content and regardless of whether they may be offensive to some individuals.

1.3. Definition of Sexual Assault

Sexual assault may include any involuntary sexual act which a person is threatened, coerced, or forced to engage in against her or his will. Sexual assault may be committed by a stranger or by an acquaintance.

Acts defined as sexual assault include rape, date rape, acquaintance rape, and gang rape, but may also include sexual touching of another person against his or her will, and forcing an unwilling person to touch another person sexually.

Sexual assault occurs when such acts are committed either by force, threat, or intimidation, or through the use of the victim’s mental or physical helplessness, of which the assailant was aware or should have been aware.

1.4. Consensual Relationships and Dating

(a) Potential Problems Caused by Sexual Relationships
Consensual sexual relationships between faculty and their students or between supervisors and their employees in some instances may result in charges of sexual harassment.

Consensual relationships may lead other faculty and students or supervisors and coworkers to question the validity of grades, evaluations, and other interactions between the people involved in such a relationship. The integrity of the work of both people in the relationship may be compromised.

University faculty, administrators, and other supervisory staff should be aware that any sexual involvement with their students or employees could subject them to formal action if a sexual harassment complaint is subsequently made and substantiated, and that they bear the greater burden of responsibility should it be proven that the power differential between them made the relationship other than fully consensual. Even when both parties have consented to a relationship, it is the faculty member, administrator, or supervisor who may be held accountable for unprofessional behavior. Other students or employees may allege that the relationship creates a hostile or abusive environment affecting them.

When a consensual relationship exists between a student and a faculty member who has control over the student’s academic work or status or between an employee and his or her supervisor, the resulting conflict of interest should be addressed in accordance with University policies concerning conflict of interest.

(b) Dating or Sexual Relationships

Members of the faculty, administrators, and other supervisory staff of the Law School shall not engage in dating or sexual relationships with students or staff members who are instructed or supervised by these faculty members, administrators, or supervisory staff members.

1.5. Responsibility to Report

Any student, faculty member, administrator, or visitor to the campus who has experienced or witnessed sexual harassment is strongly urged to report it. The University must know about incidents of sexual harassment in order to stop them, protect victims, and prevent future incidents.

It is the responsibility of University faculty, administrators, and supervisors to report complaints of sexual harassment which they receive and of possible sexual harassment of which they become aware. When there is a relationship that involves legally-recognized professional confidentiality between the complainant and the person to whom the harassment is reported, the report may be withheld at the request of the complainant.

1.6. Time Limits for Reporting

Sexual harassment should be reported immediately and must be reported within 180 days of its occurrence. However, under compelling circumstances, a delayed report of sexual harassment may be made, provided it is made within 180 days after a student has graduated from the University or 180 days after an employee has left his or her current position at the University.
1.7. Retaliation Prohibited

University policy and federal law prohibit any form of retaliation against a person who makes a sexual harassment complaint, participates in an investigation of sexual harassment, or participates in formal grievance or disciplinary procedures. Retaliation against a complainant or witness is, in itself, a violation of University policy and the law, and is a serious separate offense.

1.8. False Reports of Sexual Harassment

Willfully making a false report of sexual harassment is a violation of University policy and is a serious offense. Any person who willfully makes or participates in making a false or frivolous report of sexual harassment will be subject to disciplinary action.

1.9. Remedies at Law

Nothing in this document or these procedures shall be deemed to be a waiver of or limitation on the right of any victim of sexual harassment or sexual attack to pursue any additional remedies he or she may have at law.

1.10. Miscellaneous Definitions

When used in this document, the following terms shall be defined as follows:

Administrator: An employee of the University who holds the title of assistant director, associate director, director, assistant dean, associate dean, dean, assistant vice chancellor, associate vice chancellor, vice chancellor, assistant chancellor, associate chancellor, chancellor, or one of these titles modified by the term, executive. Some administrators also hold faculty rank.

Code: The Student Code of Conduct for law students at the University of Arkansas, as found in the current Student Handbook for the School of Law.

Complaint officer: The University employee who is designated by, and who reports to, the Chancellor.

Council: The Student Conduct Council, as constituted pursuant to Article 5 of the Code.

Faculty member: Any University employee who holds the academic rank of lecturer, assistant instructor, instructor, assistant professor, associate professor, professor, distinguished professor, University professor, or one of those titles modified by clinical, research, adjunct, visiting, or emeritus, e.g., clinical professor, adjunct assistant professor. Other titles which have faculty status and academic rank are director of libraries, librarian, associate librarian, assistant librarian, curator, associate curator, assistant curator, instructional development specialist I and II, and extension specialist I, II, III, and IV. Extension specialists hold academic rank only when they are appointed in academic units.
Staff: All employees of the University who are not faculty or administrators. Staff may be classified or non-classified.

ARTICLE TWO — Informal Resolution of Complaints

2.1. Internal Procedures

(a) Reports Kept within the Law School
Any student, faculty member, staff member, administrator, or visitor to the campus who has experienced or witnessed sexual harassment may report allegations of sexual harassment to the Associate Dean, the Associate Dean for Students, or the Faculty Liaison. They may discuss with any one or more of such persons any situation which they believe may constitute sexual harassment. Reports may be made by the person experiencing the harassment or by a third party, such as a witness to the harassment or someone who is told of the harassment.

(b) Designation and Selection of the Faculty Liaison
The Faculty Liaison shall be appointed each year by the dean, and shall be a tenured member of the law school faculty. The dean shall make such appointment prior to the beginning of the fall semester, and shall publicize the name of such person.

2.2. Reports to the Complaint Officer

Any student, faculty member, staff member, administrator, or visitor to the campus who has experienced or witnessed sexual harassment may report allegations of sexual harassment to the Complaint Officer. They may discuss with the Complaint Officer any situation which they believe may constitute sexual harassment. Reports may be made by the person experiencing the harassment or by a third party, such as a witness to the harassment or someone who is told of the harassment.

2.3. Investigation of Complaints

The Associate Dean, the Associate Dean for Students, the Faculty Liaison, or the Complaint Officer, as the case may be, will investigate every allegation of sexual harassment, including informal and third party reports. The investigation shall be appropriate to the complaint, taking into consideration its seriousness, the extent to which it is or can be substantiated, and the nature of the resolution desired by the complainant. The investigation will be initiated within five working days after the complaint is made.
2.4. Interviews Required

Upon receiving a complaint, the Associate Dean, the Associate Dean for Students, the Faculty Liaison, or the Complaint Officer will interview the complainant (and the alleged victim if it is a third party report) to compile as much specific information as possible, including the nature of each incident, the time, place, actual or potential witnesses, any actions or other responses to the alleged harassment already taken by the complainant, identification of the alleged harasser, and other pertinent facts or allegations.

2.5. Role of Dean and Administrative Supervisors

Where appropriate, any administrators who are responsible for personnel matters, will participate with the Associate Dean, the Associate Dean for Students, the Faculty Liaison, or the Complaint Officer, as appropriate, in investigating charges of sexual harassment and in the process of informal and formal resolution of sexual harassment complaints.

2.6. Explanation of Options

Persons who make complaints of sexual harassment and persons who are accused of sexual harassment are entitled to due process and to a fair and prompt resolution of the complaint. Resolution may be attempted through direct informal action, through an informal resolution process, or through a formal grievance process.

The Associate Dean, the Associate Dean for Students, the Faculty Liaison, or the Complaint Officer will explain the University’s obligation to investigate and take appropriate corrective action. Such person will present options for resolution of the complaint, including actions which the aggrieved person can take, methods of informal resolution, the appropriate formal University of Arkansas grievance procedure, and legal remedies. Such person will also offer information about the availability of counseling and other assistance appropriate to the situation.

2.7. Meeting with the Accused

The Associate Dean, the Associate Dean for Students, the Faculty Liaison, or the Complaint Officer (as the case may be) will meet with the person accused of sexual harassment and present the allegations, indicating whether there are witnesses or other evidence that would appear to substantiate the charge, and whether the complaint is informal or formal. The alleged harasser may make an initial, informal response to the allegations.

If the issue is not resolved at that point, the Associate Dean, the Associate Dean for Students, the Faculty Liaison, or the Complaint Officer will proceed with an informal complaint resolution process or, if appropriate, will refer the complainant to a formal grievance procedure.

2.8. Direct, Informal Action

After the Associate Dean, the Associate Dean for Students, the Faculty Liaison, or the Complaint Officer has discussed the complaint with the complainant and informed the person
accused that a complaint has been made, the complainant may choose to attempt to resolve the matter by confronting the accused harasser directly. The Associate Dean, the Associate Dean for Students, the Faculty Liaison, or the Complaint Officer can suggest methods and models, for example, writing a letter describing the offensive behavior, its effects on the complainant, and her or his request that the behavior cease.

2.9. Informal Resolution Process

If the complainant wishes to attempt to resolve the problem informally, the Associate Dean, the Associate Dean for Students, the Faculty Liaison, or the Complaint Officer may serve as a mediator, or otherwise assist both parties in coming to an understanding and resolving the problem, with a focus on changing current and future behavior. Both parties must be informed of their rights to due process. The Associate Dean, the Associate Dean for Students, the Faculty Liaison, or the Complaint Officer may take statements from either party and from any witnesses that either party identifies, but the main focus will be on resolution and conciliation. Other administrative supervisors will be involved, as appropriate, in the informal resolution process.

2.10. Reports of Outcome; Lack of Definitive Determination

Both parties will receive written confirmation of the informal resolution process and be reminded of the University’s policy. In some instances, it may not be possible to determine whether sexual harassment has occurred. Allegations of sexual harassment which are not eventually substantiated are not necessarily false allegations.

2.11. Option of Progressing to Formal Procedures

If either party is not satisfied with the result of the informal process or if the complainant chooses to use a formal University of Arkansas grievance procedure, the steps outlined in Article Three of this document shall be followed.

2.12. Confidentiality

Every possible effort will be made to insure the confidentiality of information received as part of the University’s resolution and grievance procedures. All parties to the complaint will be asked to assist in keeping the complaint confidential. However, the University’s obligation to stop sexual harassment means that it cannot fail to take appropriate action and that confidentiality cannot always be guaranteed.

In the interests of fairness and problem resolution, disclosure of complaints and their substance and the results of investigations and grievance procedures, except as compelled by law, will be limited to the immediate parties and other appropriate administrative officials.
2.13. Disciplinary Action

Disciplinary action up to and including dismissal will be taken against persons found to have engaged in sexual harassment or found to have willfully made a false or frivolous accusation of sexual harassment. The specific disciplinary action will be determined by the nature and seriousness of the offense. In all cases where disciplinary action is recommended, procedures in the Staff Handbook (attached as Appendix One, Part A) or the Faculty Handbook (attached as Appendix One, Part B) are to be followed.

If a thorough investigation of a complaint substantiates that formal disciplinary action is warranted because either sexual harassment has occurred or a false report of sexual harassment has been made, the Associate Dean, the Associate Dean for Students, the Faculty Liaison, or the Complaint Officer will report the findings to the appropriate vice chancellor, who is responsible for initiating disciplinary action. If a formal grievance procedure has been used, a recommendation for disciplinary action may be made by the administrator or panel that has heard and made a decision about the grievance. Recommendations for disciplinary action may be appealed, using the appropriate University of Arkansas grievance procedure.

At the direction of the vice chancellor and following applicable University rules, disciplinary action will be taken against the student, faculty member, administrator, or staff member. The disciplinary action shall be implemented within thirty days of the notification of the vice chancellor. The Associate Dean, the Associate Dean for Students, the Faculty Liaison, or the Complaint Officer will monitor the implementation of the disciplinary process and its timeliness.

2.14. Record Keeping

Records will be kept in employee personnel files only if a complaint of sexual harassment is substantiated and disciplinary action is taken. All other records will be kept only for statistical purposes and to document that the University has responded to complaints. The Arkansas Freedom of Information Act compels disclosure of employee records only if they form the basis for decisions to suspend or terminate an employee and if there is a compelling public interest in their disclosure. Student records are protected from disclosure under the Family Education and Privacy Rights Act.

Records maintained by the Associate Dean, the Associate Dean for Students, the Faculty Liaison, or the Complaint Officer to document that the University has responded to all complaints will include information concerning the receipt of the complaint, the notification of the alleged harasser and his or her response, and the steps taken to investigate the complaint, and will indicate whether the complaint was substantiated. All written statements obtained, as well as summaries of witness interviews, will be included in the documentation. If the complaint is substantiated, the records will document actions taken to stop the harassment and to remedy its effects. If the complaint is not substantiated, all records pertaining to the complaint will be sealed, subject only to legally-ordered disclosure. Whether the complaint is substantiated or not, the records will document that all parties have been reminded in writing of the University’s policy prohibiting sexual harassment.
2.15. Statistical Review
The Complaint Officer will report periodically to the Chancellor the statistical data compiled from investigation records and all disciplinary action taken by the University.

The Faculty Liaison will report periodically to the Dean the statistical data compiled from investigation records kept at, and procedures followed by, the law school.

**ARTICLE THREE — Formal Resolution of Complaints**

3.1. Formal Procedures for Complaints against Students

(a) *Reports to the Student Conduct Council*

At the option of the person who wishes to report an incident of sexual harassment committed by or participated in by a student at the law school, or at the option of the accused student, such incident may be referred to the Student Conduct Council (“the Council”), as if such incidents were prohibited under the terms of Article 4 of the Student Code of Conduct (“the Code”). For these purposes, it shall not matter whether a particular allegation in fact would amount to a violation of Article 4 of the Code, although it is recognized that some such incidents might amount to an independent violation of the Code. Instead, the appropriate determinations shall be whether or not the allegations and proof establish sexual harassment, as defined in Article One of this document.

(b) Participation of Associate Dean, Associate Dean for Students, Faculty Liaison, or Complaint Officer

At any time, the person who reported the incident of sexual harassment may also seek the advice or participation of the Associate Dean, the Associate Dean for Students, the Faculty Liaison, or the Complaint Officer in the proceedings before the Council.

(c) *Incorporation of Code Procedures*

In investigation and making determinations following any report of sexual harassment against a student, the Council shall follow the procedures set forth in Article 6 (dealing with Reporting and Investigating Allegations) and Article 7 (dealing with Procedures of the Council) of the Code. Parts of Articles 6, 7, and 8 of the Code are attached hereto as Appendix One, Part C.

(d) *Confidentiality*

The Council and all participants in Council proceedings shall be bound by the confidentiality provisions of Sections 8.01 and 8.02 of the Code, except that the Dean and the Complaint Officer shall be given notice of any finding of sexual harassment, the facts concerning such incident, and any sanctions imposed. The Dean and the Complaint Officer shall keep such information confidential to the extent that this is consistent with law and with the University’s obligation to stop sexual harassment.
3.2. Formal Procedures for Complaints against Staff Employees
   (a) Resort to Employee Grievance Procedures
       At the option of the person who wishes to report an incident of sexual harassment
       committed by or participated in by a staff employee of the University, or at the option of
       the accused staff employee, such incident may be dealt with in accordance with the
       employee grievance procedures of the University.
   (b) Participation of Associate Dean, Associate Dean for Students, Faculty Liaison, or
       Complaint Officer
       At any time, the person who reported the incident of sexual harassment may also
       seek the advice or participation of the Associate Dean, the Associate Dean for Students,
       the Faculty Liaison, or the Complaint Officer in the employee grievance proceedings.

3.3. Formal Procedures for Complaints against Administrators
   (a) Resort to Administrative Grievance Procedures
       At the option of the person who wishes to report an incident of sexual harassment
       committed by or participated in by an administrator of the University, or at the option of
       the accused administrator, such incident may be dealt with in accordance with the
       administrative grievance procedures of the University.
   (b) Participation of Associate Dean, Associate Dean for Students, Faculty Liaison, or
       Complaint Officer
       At any time, the person who reported the incident of sexual harassment may also
       seek the advice or participation of the Associate Dean, the Associate Dean for Students,
       the Faculty Liaison, or the Complaint Officer in the administrative grievance
       proceedings.

3.4. Formal Procedures for Complaints against Faculty Members
   (a) Resort to Faculty Grievance Procedures
       At the option of the person who wishes to report an incident of sexual harassment
       committed by or participated in by a faculty member of the University, or at the option of
       the accused faculty member, such incident may be dealt with in accordance with the
       faculty grievance procedures of the University.
   (b) Participation of Associate Dean, Associate Dean for Students, Faculty Liaison, or
       Complaint Officer
       At any time, the person who reported the incident of sexual harassment may also
       seek the advice or participation of the Associate Dean, the Associate Dean for Students,
       the Faculty Liaison, or the Complaint Officer in the faculty grievance proceedings.

ARTICLE FOUR — Procedures in the Event of Sexual Attack
4.1. Responsibility to Report

Any student, faculty member, staff member, administrator, or visitor to the campus who has experienced or witnessed sexual assault should report the assault immediately to the University Police (Department of Public Safety). If the assault occurred outside the jurisdiction of the University Police, they will assist in reporting it to the proper authorities.

Sexual assault may also be reported to the Fayetteville police, if it occurred within the city limits, or to the police of another municipality if the assault occurred within another township or city which has a police force. It may be reported to the Washington County Sheriff’s Department if it occurred outside city limits but within the county. Sexual assault may also be reported to the Community Rape Crisis Help Line.

4.2. Preserving Evidence

It is important that evidence of sexual assault be preserved, because it may be necessary as proof in a criminal case. Victims and others should not alter the scene of the attack. The victim should not change clothes or take a bath before calling the police or Rape Crisis. The victim should be taken to a local hospital which has kits to collect and preserve evidence of rape and sexual assault.

4.3. Availability of Counseling

Counseling and other mental health services for victims of sexual assault are available on campus and in the community. Students and employees may use the Counseling and Psychological Services (CAPS) unit of the Student Health Center. The Psychological Clinic of the Department of Psychology may be able to provide assistance in some cases. Community mental health agencies, such as the Ozark Guidance Center, and counselors and psychotherapists in private practice in the area can provide individual and group therapy. The Rape Crisis Help Line may make referrals for individual counseling and support groups.

4.4. Education and Awareness Programs

The Sexual Health Education Coordinator in the Department of Health Promotion and Education of the University of Arkansas Health Center is responsible for planning and coordinating campus education and awareness programs about all forms of sexual assault, including rape, acquaintance rape, and other sex offenses. Programs are presented regularly throughout the academic year in residence halls, fraternities, and sororities, for student organizations and academic classes, and in other settings that are likely to reach people throughout the campus community. Campus-wide education and awareness activities are also conducted during Sexual Assault Prevention Week.

Other campus resources for sexual assault awareness, education, and prevention include the peer education group, Sexual Harassment and Rape Prevention (SHARP), and the Sexual Assault Victim Advocacy and Education Program (SAVE), sponsored by Rape Crisis, the University Health Center, and the Alliance for Women’s Concerns. A peer education course in sexual assault prevention is also offered.
4.5. University Grievance Procedures

In some instances, it may be appropriate for University faculty and staff members to use the University’s formal grievance procedures to address grievances related to allegations of sexual assault. The faculty grievance procedure is described in the University’s Faculty Handbook. The staff grievance procedure is described in the Staff Handbook.

During University grievance procedures, both the accuser and the person accused are entitled to the same opportunities to have others present. Both the accuser and the person accused shall be informed of the outcome of any campus judicial proceeding or grievance procedure in which sexual assault is alleged.

4.6. Disciplinary Action

Students and employees who are convicted of sexual assault may also be subject to University disciplinary action. According to the circumstances of the case, possible sanctions may range from a formal reprimand to dismissal from the University.

Victims of sexual assault may receive assistance in making reasonable changes in their work, academic, or living situations. Requests for academic changes should be directed to the dean of the appropriate college. Staff members may request assistance in changing their work situations from their supervisors or from the Department of Human Resources. Requests for such changes will be considered on the basis of their appropriateness and whether the requested change is reasonably available.

May 1, 1997
11.2 Employee Grievance Procedure

In the event that a problem cannot be resolved informally, the following grievance procedure is available to staff employees:

Definitions

1. **Day:** A regularly scheduled work day, excluding holidays.
2. **Grievance:**
   a. Unless excluded below, a grievance is a complaint of a staff employee against the University concerning:
      1) the interpretation, application, or claimed violation of a specific term or provision of University policy, or
      2) other matters which affect the employment relationship of the staff employee to the University.
   b. Excluded from the procedure are complaints relating to:
      1) wages and salaries;
      2) falsification of application materials;
      3) retrenchment of employees pursuant to Board Policy 405.5;
      4) matters involving reappointment, performance evaluation, and promotion which do not concern a claimed failure by the University to follow established policy;
      5) classification of positions; or
      6) termination with thirty days notice.
3. **Grievance panel:** Prior to the beginning of each fiscal year, the vice chancellor of each of the five administrative units (Academic Affairs, Enrollment Management, Finance and Administration, Student Services, and University Advancement) shall submit to the Director of Affirmative Action the names of seven staff employees (both classified and non-classified as defined in definition 7, below) from within their respective administrative units. The Chancellor's Office staff shall be eligible for selection to the panel by the Vice Chancellor for University Advancement. The thirty-five employees whose names are submitted will comprise the Grievance Panel for one fiscal year.
4. **Grievance committee:** Five staff employees selected from the grievance panel. The grievance committee shall hear all evidence relevant to the grievance, make findings, and make recommendations to the Chancellor based on its findings. The Committee shall not be bound by official rules of evidence and shall have no subpoena power.
5. **Grievance officer:** The individual responsible for assisting all staff employees during the grievance process and for overseeing all procedural matters and paperwork pertaining thereto. The grievance officer shall be designated by the Director of Affirmative Action and shall work in the Office of Affirmative Action.

6. **Grievance record:** A confidential file maintained by the grievance officer which shall include all documentation pertaining to all stages of a grievance. The grievance officer shall be the custodian of all grievance records. Whether a grievance file is subject to disclosure under the Arkansas Freedom of Information Act shall be determined on a case-by-case basis.

7. **Staff employee:** Any person who (a) fills a classified position falling within the purview of the Uniform Classification and Compensation Act or (b) who fills a non-classified position not considered faculty or administrative.

**Rights and Responsibilities**

1. Each grievance shall be handled promptly and impartially, without fear of coercion, discrimination, or reprisal. Each participant in a grievance shall do his or her part to protect this right.

2. A grievant, any witness, any other employee involved as a participant in the grievance process, and any member of the grievance committee shall be provided released time from her or his work unit, as necessary, to participate in the grievance process.

3. If a representative of the University fails to observe the time limits required herein, the grievance shall be deemed to be settled in favor of the grievant. However, the time limits may be extended by the grievance officer, with the approval of the Director of Affirmative Action, under unusual circumstances or when such extension is deemed to be in the best interest of the grievant or the University.

4. At the end of the procedure for each grievance, the grievance officer shall (a) close the grievance record for permanent retention by the Office of Affirmative Action, and (b) submit a written summary of the grievance to the Director of Affirmative Action.

**Informal Resolution Procedure**

**Grievant's responsibility:** The grievant shall first attempt to resolve the grievance informally with his or her immediate supervisor and, as necessary, with the immediate supervisor of her or his immediate supervisor.

**Supervisor's responsibility:** All supervisors, to the best of their ability, are required to inform, listen to, and counsel with employees on all matters affecting them and to resolve informally, if possible, all grievances. In the event the informal attempts to resolve the grievance are not successful and the grievant wishes to pursue the matter, he or she shall initiate a meeting with the grievance officer.

**Grievance officer's responsibility:** The grievance officer shall work with appropriate parties in an attempt to resolve the grievance informally. If the process fails to bring about a satisfactory resolution, the grievant may initiate the following formal grievance procedure.

**Formal Grievance Procedure**

**Step I**
1. The grievant must contact the grievance officer to initiate the formal grievance procedure. The grievant shall submit to the grievance officer a written statement of the facts and the resolution sought. The statement must be signed and dated by the grievant. Forms will be provided for this purpose.

2. The grievance officer shall:
   a. determine if there is a grievance as defined herein;
   b. advise the grievant of the steps to be followed in the formal grievance procedure;
   and
   c. advise the grievant of his or her right to:
      1) use the grievance procedure;
      2) have another University employee present as a representative at all stages of the grievance procedure;
      3) receive released time as necessary to participate in the grievance procedure (the grievant is cautioned about abusing his or her right to released time);
      4) receive copies of all documentation, regardless of form, during all steps of the grievance procedure; and
      5) take further action through external remedies when the internal administrative process has been exhausted.

3. If the grievance officer determines that there is no grievance as defined herein, the Director of Affirmative Action shall make a final determination on that issue. If the final determination is that there is no grievance as defined herein, the staff employee will be encouraged to pursue further informal discussion of the problem and shall be advised of his or her right to consult an attorney.

4. Within five days of receipt of the grievance statement, the grievance officer shall transmit a copy of the grievance to the grievant's immediate supervisor.

5. Within five days of receipt of the grievance statement, the supervisor shall either (1) set a date for a formal meeting or (2) respond to the grievant in writing.
   a. **Meeting option**
      1) The supervisor shall contact the grievance officer and arrange a time and a place for a meeting. The grievance officer shall inform the grievant.
      2) The supervisor, the grievant, and the grievance officer and any other person(s) deemed appropriate shall meet at the time and place arranged and discuss the grievance with the goal of agreeing upon a resolution of the grievance.
      3) Whether a resolution was agreed upon at the meeting or not, the grievance officer shall write a summary of the meeting and submit copies to the supervisor and the grievant.
      4) The supervisor shall prepare a written statement addressed to the grievant and containing items agreed upon in the meeting and the supervisor's proposal for resolution of the grievance. The written statement shall be submitted to the grievance officer, who shall transmit it to the grievant.
   b. **Written response option**
      The supervisor shall prepare a written response addressed to the grievant and containing the supervisor's proposal for resolution of the grievance and the
reasons for the course of action proposed. The written statement shall be submitted to the grievance officer, who shall transmit it to the grievant.

**Step II**
1. If the grievant is not satisfied with the written statement prepared by the supervisor, the grievant will have five days in which to provide the grievance officer with a written request for a review of the grievance by the grievant's director or department head. (If the immediate supervisor is a director or department head, the grievance will move to Step III [for academic units only] or Step IV in the process.)
2. Within five days of receipt of the written request for review of the grievance, the grievance officer shall transmit the grievance statement and all pertinent documentation to the grievant's director or department head.
3. Within five days of receipt of the grievance statement, the director or department head shall either (1) set a formal meeting or (2) respond to the grievant in writing.
   a. **Meeting option**
      1) The director or department head shall contact the grievance officer and arrange a time and a place for a meeting. The grievance officer shall inform the grievant.
      2) The director or department head, the grievant, and the grievance officer and any other person(s) deemed appropriate shall meet at the time and place arranged and discuss the grievance with the goal of agreeing upon a resolution of the grievance.
      3) Whether a resolution was agreed upon at the meeting or not, the grievance officer shall write a summary of the meeting and submit copies to the director or department head and the grievant.
      4) The director or department head shall prepare a written statement addressed to the grievant and containing items agreed upon in the meeting and the director or department head's proposal for resolution of the grievance. The written statement shall be submitted to the grievance officer, who shall transmit it to the grievant.
   b. **Written response option**
      The director or department head shall prepare a written response addressed to the grievant and containing the director or department head's proposal for resolution of the grievance and the reasons for the course of action proposed. The written statement shall be submitted to the grievance officer, who shall transmit it to the grievant within five days.

**Step III (for academic units only)**
1. If the grievant is not satisfied with the written statement prepared by the director or department head, the grievant will have five days in which to provide the grievance officer with a written request for a review of the grievance by the grievant's dean. (If the immediate supervisor is a dean, the grievance will move to Step IV in the process.)
2. Within five days of receipt of the written request for review of the grievance, the grievance officer shall transmit the grievance statement and all pertinent documentation to the grievant's dean.
3. Within **five days** of receipt of the grievance statement, the dean shall either (1) set a formal meeting or (2) respond to the grievant in writing.

   a. **Meeting option**
      1) The dean shall contact the grievance officer and arrange a time and a place for a meeting. The grievance officer shall inform the grievant.
      2) The dean, the grievant, and the grievance officer and any other person(s) deemed appropriate shall meet at the time and place arranged and discuss the grievance with the goal of agreeing upon a resolution of the grievance.
      3) Whether a resolution was agreed upon at the meeting or not, the grievance officer shall write a summary of the meeting and submit copies to the dean and the grievant.
      4) The dean shall prepare a written statement addressed to the grievant and containing items agreed upon in the meeting and the dean's proposal for resolution of the grievance. The written statement shall be submitted to the grievance officer, who shall transmit it to the grievant.

   b. **Written response option**
      The dean shall prepare a written response addressed to the grievant and containing the dean's proposal for resolution of the grievance and the reasons for the course of action proposed. The written statement shall be submitted to the grievance officer, who shall transmit it to the grievant within five days.

**Step IV**
1. If the grievant is not satisfied with the written statement prepared by the dean (academic units only), director or department head, the grievant will have **five days** in which to provide the grievance officer with a written request for a review of the grievance by the grievant's vice chancellor.
2. Within **five days** of receipt of the written request for review of the grievance, the grievance officer shall transmit the grievance statement and all pertinent documentation to the grievant's vice chancellor.
3. Within **five days** of receipt of the grievance statement, the vice chancellor shall either (1) set a formal meeting or (2) respond to the grievant in writing.

   a. **Meeting option**
      1) The vice chancellor shall contact the grievance officer and arrange a time and a place for a meeting. The grievance officer shall inform the grievant.
      2) The vice chancellor, the grievant, and the grievance officer and any other person(s) deemed appropriate shall meet at the time and place arranged and discuss the grievance with the goal of agreeing upon a resolution of the grievance.
      3) Whether a resolution was agreed upon at the meeting or not, the grievance officer shall write a summary of the meeting and submit copies to the vice chancellor and the grievant.
4) The vice chancellor shall prepare a written statement addressed to the
grievant and containing items agreed upon in the meeting and the vice
chancellor's proposal for resolution of the grievance. The written
statement shall be submitted to the grievance officer, who shall transmit it
to the grievant.

b. **Written response option**
The vice chancellor shall prepare a written response addressed to the
grievant and containing the vice chancellor's proposal for resolution of the
grievance and the reasons for the course of action proposed. The written
statement shall be submitted to the grievance officer, who shall transmit it to the
grievant within five days.

**Step V**
1. If the grievant is not satisfied with the written statement prepared by the vice
chancellor, the grievant will have **five days** in which to provide the grievance officer with
a written request for a review of the grievance by a grievance committee.
2. Within **five days** of receipt of the written request for review of the grievance, the
   grievance officer shall initiate formation of a grievance committee pursuant to the
   procedure described in the Definitions section above.
3. Within **five days** of the formation of the grievance committee, the grievance officer shall:
   a. inform the Chancellor in writing that a grievance committee has been formed;
   b. call the grievance committee members together to:
      1) advise the committee members of their responsibility to select a committee
         chairperson; and
      2) provide the grievance record to the grievance committee;
   c. establish a mutually agreeable time and place for the hearing;
   d. notify all parties of the time and place of the hearing; and
   e. advise all persons involved of their right to released time.

4. Within **ten days** of its meeting with the grievance officer, the grievance committee
shall:
   a. hear all evidence relevant to the grievance; and
   b. determine whether, in the opinion of the committee, University policies and
      procedures were followed.
The grievant, grievance committee, and the University representative may request the
presence at the hearing of anyone having information pertinent to the grievance.

5. Within **two days** of the conclusion of the hearing, the grievance officer shall transmit
the grievance record to the Chancellor.

6. Within **five days** of the conclusion of the hearing, the grievance committee shall
submit in writing to the Chancellor the committee's proposal for resolution of the
grievance and the reasons for the course of action proposed.
7. The Chancellor shall prepare a written statement addressed to the grievant containing the Chancellor's decision for resolution of the grievance and the reasons for the decision. The Chancellor's decision shall be considered final, and no further administrative review shall be available to the grievant.

   A copy of the grievance committee's proposal for resolution of the grievance shall be attached to the written statement. The written statement shall be submitted to the grievant, with a copy to the grievance officer.

8. The grievance officer shall inform the grievant's immediate supervisor, dean, director or department head, and vice chancellor of the action required to carry out the decision of the Chancellor.

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**Part B SELECTED PROVISIONS FROM UNIVERSITY FACULTY GRIEVANCE PROCEDURES**

**Definitions**

a. A “faculty member” who may process a grievance under this procedure is defined as a University employee assigned to the Fayetteville campus who (1) holds the academic rank of instructor, assistant professor, associate professor, or professor, or (2) performs duties, full or part-time, directly related to the instructional and/or research functions of the University.

b. There are two types of grievances. The first means a charge of wrongdoing against one or more faculty members or staff on another (the claimant). Such behavior may consist of (but not be limited to) intimidation, harassment, violation of privacy, slander, or other inappropriate behavior in a professional workplace.

c. A “decision” means a determination that the grievance issue or issues were, or were not, inappropriate behavior(s) in a professional workplace, or in violation of rights under established personnel regulations, policies, or practices of the University. Each decision shall include an assessment of the issues and reasons for the position taken.

d. This procedure confers no authority to include within a grievance, or within a recommendation or decision concerning the grievance, any amendment, deletion, addition, or modification to University personnel regulations, policies, and practices. Other procedures afford opportunities for review and revision of the existing personnel regulations, policies, and practices against which the grievance is to be assessed.

**Grievance Procedure Steps**

A faculty member having a grievance is entitled to have the issue considered in the following manner:

a. The faculty member discusses the grievance with the department head, chairperson, or other immediate administrative superior (hereafter called “the respondent”). If the grievance is not resolved to the satisfaction of the faculty member by discussions at the departmental level, the faculty member may discuss it with his or her dean. If the grievance is satisfactorily resolved by any of the above discussions, the terms of the resolution shall be reduced to writing, if any of the involved parties desires to have such a
written statement, and signed by the faculty member, the respondent, and the dean, if involved.

b. If the grievance is not resolved by the above discussions and the faculty member then chooses to pursue the matter further, the issue must be reduced to writing promptly by the faculty member and sent immediately to the respondent. Within ten working days after receipt of the written statement, the respondent shall prepare a written decision on the matter and forward copies of both documents to the appropriate dean and to the faculty member.

If a department has a personnel committee or other analogous committee, the written statements of the faculty member and the respondent may be brought before the committee for consideration (or reconsideration) by either party within the ten-day period referred to above and before they are presented to the dean. If such a referral is made, the ten-day period is extended to twenty working days. The committee shall make recommendations in writing for resolution of the grievance. If the grievance is not satisfactorily resolved through the mediation of the committee, the full record, including any written report of the committee, shall be forwarded by the respondent to the dean and to the faculty member in the manner described in the previous paragraph.

c. The dean shall make an effort to resolve the grievance in a mutually satisfactory manner, but in any event shall, within ten working days after receipt of the file, prepare a written decision on the matter and forward copies to the faculty member and respondent. The dean may refer the matter to an appropriate college committee for advice. If such a referral is made, the ten-day period is extended to twenty working days. The committee may make a written report on the matter, in which case that report shall become part of the record which is included with the report of the dean’s decision to the faculty member and the respondent.

d. The decision of the dean may be appealed to the Vice Chancellor for Academic Affairs by letter sent by either the faculty member or the respondent within ten working days following receipt of the dean’s decision. In case of such an appeal, the entire written record of the matter shall be concluded with the appeal letter. Upon receipt of the appeal, the Vice Chancellor for Academic Affairs shall request that an ad hoc grievance committee be constituted from among the membership of the Faculty Grievance Panel to investigate the matter and make recommendations for its solution.

When ad hoc grievance committees are needed, the Chair of the Faculty shall impanel such grievance committees so as to maximize impartial evaluation of the plaintiff’s grievance. Individual ad hoc grievance committees shall consist of five or more members of the larger Panel. Individual grievance committees shall select their own chairs who shall be responsible for reporting the recommendations of their committees to all parties in the grievances [see below], including the administrative supervisors of the faculty members involved and the Chair of the Faculty Grievance Panel who will, in turn, provide a summary annual report of the total recommendations of all ad hoc grievance committees to the Chair of the Faculty Senate, excluding the names of aggrieved faculty members.

The composition of the Faculty Grievance Panel shall be representative of all colleges and must not formally or in practice under represent women and minorities. Persons holding administrative positions are not eligible to serve on this Panel. The
faculty member whose grievance is being considered and the respondent may each strike one member from the initial list of members of the ad hoc grievance committee. If the remaining grievance committee consists of four members, the Chair of the Faculty shall immediately appoint a fifth member from the Faculty Grievance Panel. The ad hoc grievance committee shall select its own chairperson. The ad hoc grievance committee shall be given access to relevant witnesses and records, shall take sworn testimony, and shall tape the hearing, and attach to their recommendations the written evidence that has been assembled. The ad hoc grievance committee shall adopt and use fair procedures, understanding that its informal inquiry is designed to develop all pertinent factual information. Unless the time is extended by action of the Vice Chancellor for Academic Affairs, the ad hoc grievance committee shall return its written recommendations to the Vice Chancellor for Academic Affairs within one month of the date on which the committee membership was finally established. Within ten working days following receipt of the recommendations of the grievance committee, the Vice Chancellor for Academic Affairs shall present a written decision on the matter, including the report of the ad hoc grievance committee, to the person whose appeal is being heard, with copies to the dean and the other person involved.

e. The decision of the Vice Chancellor for Academic Affairs may be appealed to the Chancellor within ten working days of receipt, by the faculty member, the respondent, or the dean. The Chancellor’s decision shall be made promptly, and copies of it shall be sent to all of the parties involved. Any appeal to the Chancellor shall be on the basis of the complete written record only.

Related Policies

In view of the fact that this policy and procedure involves personnel issues, all grievance hearings shall be conducted in private with only those involved present.

No faculty member, member of a grievance committee, administrator, or witness shall suffer loss of compensation for the time spent in any step of this procedure. The decision and relevant records shall be forwarded to and retained in the files of the Vice Chancellor for Academic Affairs for a minimum of three years. No employee filing a grievance, serving on a grievance committee, or appearing as a witness in any grievance proceeding shall thereafter be discriminated against or suffer any employment disadvantage by reason of participation in grievance matters pursuant to this procedure.

Faculty Grievance Panel

See “Faculty Senate Committees” in Section Three for a description of the Faculty Grievance Panel.

Administrator Grievance Procedure

An administrator who has a grievance* should discuss the matter with his or her supervisor, and if the matter is not resolved satisfactorily, the aggrieved party should reduce the complaint to writing and send copies to the supervisor and to the chief executive office on the campus. The supervisor should respond in writing with copies to the chief executive office and the aggrieved party. The chief executive officer will review the matter and make his decision, which shall be final.
* Grievance is defined in Faculty Grievance Procedure under Definitions, Item b.