

CHANCELLOR FOR COMMUNITY COLLEGES MEMO

CCCM# 2200 (November 1989)

SUBJECT: UH Community Colleges Policy and Procedures Relating to Sexual Harassment

A. References:

1. UH Executive Policy E1.202, University Statement of Non-Discrimination and Affirmative Action.
2. UH Executive Policy E1.203, University Statement on Sexual Harassment.
3. UH Board of Regents Bylaws and Policies, Section 1-5, Policy Non-Discrimination and Affirmative Action, and Section I-4, Rights and Responsibilities of the University of Hawaii Community.
4. Title VII of the Civil Rights Act of 1964, and Part 1604 -- Guidelines on Discrimination Because of Sex, Rules and Regulations 74677, Federal Register/Vol. 45, No. 219.
5. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681 et seq.).
6. Title IX Section 106.8 (b) regulations adopted by the U.S. DOE (34 CFR 106.8 (b)).
7. Chapter 662-16 - Hawaii Revised Statutes.

B. Board of Regent's Responsibility:

Sexual harassment of students or employees of the University constitutes sex discrimination and violates federal law. Employees and students subjected to sexual harassment are protected under the provisions identified in Section A. The Board of Regents of the University of Hawaii upholds its responsibility as an employer to maintain a workplace and environment free of sexual harassment. UH Executive Policy E1.203 prohibits any harassment of students or employees on the basis of sex.

C. Purpose:

The purpose of CCCM 2200 is to establish and implement the policy, guidelines and procedures on sexual harassment for incorporation into each college's procedures on sexual harassment, as appropriate.

D. Community College Policy:

The Community College System strictly prohibits sexual harassment under any circumstances. The Community Colleges neither expressly nor tacitly condone sexual harassment in any manner or form either in an academic setting or work environment. Further, the Community Colleges strongly advise their faculty and employees to avoid even the appearance of impropriety, because of potential negative consequences that may arise even when charges are unfounded.

Sexual relations, even welcome and appropriate under other circumstances, may not be appropriate when they occur between a faculty member and a student currently enrolled in the faculty member's class, or between advisor and advisee or a supervisor and subordinate employee. These relationships could form a legitimate basis for disciplinary action. Even in relationships where no negative consequences arise for the individuals involved, they can create a conflict of interest and possible use of academic or supervisory leverage to maintain or promote the relationship. Sexual relationships, viewed by the parties as mutual, may raise questions of favoritism as well as abuse of trust and power.

The Community Colleges recognize that many of the relationships and conduct that relate to sexual harassment are often private in nature. As such, the Community Colleges encourage these individuals who feel that they are the subjects of sexual harassment to immediately report problems/incidents through established procedures. If they are not reported, it will be difficult, if not impossible, for the Community Colleges to investigate and take appropriate corrective action(s) where warranted.

The Community Colleges also recognize that charges of sexual harassment are extremely serious in nature. Thus, the rights of both parties must be scrupulously protected.

E. Definitions:

1. Definition of Sexual Harassment

Sexual harassment includes, but is not limited to, the following:

- a. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- b. Solicitation of sexual activity or other sex-related behavior by promise of rewards and/or threats of punishment.
- c. Activities of a sexual nature which have the effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile, or offensive environment.
- d. Verbal or physical conduct of a sexual nature, expressed or implied, imposed on the basis of sex, that denies, limits, or conditions the provision of aid, benefits, services or treatment.

F. Responsibilities:

1. Chancellor

- a. Assists Provosts as requested with the development of campus rules and regulations prohibiting sexual harassment.
- b. Serves as hearings officer to hear appeals of Provosts' decisions.
- c. Provides Provosts with technical assistance, as requested, on the resolution of sexual harassment complaints.
- d. Requests assistance of the Department of the Attorney General, as appropriate.
- e. Ensures applied sanctions or disciplinary action are consistent with existing University policies and collective bargaining contracts.
- f. Conducts systemwide in-service training on recognizing and preventing sexual harassment.

2. Provost

- a. Establishes procedures for the handling of sexual harassment complaints by students and employees. Takes appropriate action regarding complaints of sexual harassment. (Attachment A)
- b. Communicates rules and regulations to students and employees through the use of a variety of methods, e.g., bulletin boards, pamphlets, an in-service training.
- c. Informs Chancellor of sexual harassment complaints.
- d. Assures employees and students of a confidential sexual harassment procedure.
- e. Follows through on sexual harassment complaints quickly and thoroughly.

G. Revisions:

CCCM 2200 dated May 1987.

Joyce S. Tsunoda
Chancellor for Community Colleges

Resolution of Complaint Procedure

Because of the private nature of most sexual harassment incidents and the emotional and moral complexities surrounding such matter, every effort should be made to resolve all complaints as expeditiously as possible.

Dissemination of information relating to complaints of sexual harassment should be limited to those individuals necessary to the proceedings in order that the privacy of all individuals involved is safeguarded as fully as possible. Due to the personal nature of the investigation, it is suggested that Attachment B be completed and filed by the complainant.

Individual community college should incorporate the following as part of the campus discrimination complaint procedure:

Complaint Procedure

Step 1

1. Any community college employee or student who believes that he or she has been a victim of unlawful discrimination may file a complaint with the campus EEO/AA coordinator or campus designee. The Coordinator designee shall immediately notify the Provost that a complaint has been filed.
2. The EEO/AA coordinator/designee should counsel the complainant about other avenues for the complaint, such as:
 - a. Filing a grievance under collective bargaining or UH grievance procedures (employees only).
 - b. Filing a complaint under Chapter 378, H.R.S., the Hawaii Employment Practices law which covers unlawful discrimination based on RACE, SEX, AGE, RELIGION, COLOR, ANCESTRY, PHYSICAL HANDICAP, MARITAL STATUS, or ARREST AND COURT RECORD. Complaints must be filed with the State Department of Labor and Industrial Relations Enforcement Division within 90 days of the alleged discrimination.
 - c. Filing a complaint under Title VII of the Civil Rights Act of 1964 which covers unlawful discrimination based on RACE, COLOR, RELIGION SEX, and NATIONAL ORIGIN with the Equal Employment Opportunity Commission (within 180 days of the alleged discrimination) or with the DLIR Enforcement Division (within 90 days of the alleged discrimination).

3. The complainant shall present the complaint within 90 or less days after the date on which the discrimination is alleged to have occurred. (Extensions of the deadline may be granted by the EEO/AA Coordinator or Campus Designee due to extenuating circumstances. Such extensions would normally not exceed six (6) months.) The consequence of failure to timely present a complaint is that it may preclude legal recourse should the complainant decide to take subsequent legal action.
4. The complaint should be in writing and provide sufficient information to permit fact-finding and Investigation (See Attachment C). The EEO/AA coordinator/designee shall be available to assist the complainant in providing the necessary information.
5. The EEO/AA coordinator/designee shall inform the alleged offender of the allegation and the identity of the complainant. (See Attachment D if alleged offender is an employee in a collective bargaining unit.) The EEO/AA coordinator/designee shall solicit information on the alleged incident from both parties involved.
6. The investigation should be completed and findings submitted to the Provost by the EEO/AA coordinator/designee within thirty (30) calendar days of the date of the complaint. Should an extension of time in which to submit the findings be required for any reason, the complainant shall be notified.
7. Upon receipt of the findings from the EEO/AA Coordinator/designee, the Provost shall then take appropriate action in accordance with the applicable student conduct codes, collective bargaining contracts, and University policies, procedures, rules and regulations.
8. Every effort should be made to maintain confidentiality and the privacy of the individuals involved.
9. Sexual harassment complaints and the resulting documentation and data should be kept on file in the Office of the EEO/AA coordinator/designee for so long as required by law.

Step 2

Appeal:

1. Complainant may appeal to the Chancellor within fifteen (15) calendar days after notification of the decision of the Provost. The appeal must be in writing and must specify why the decision at Step 1 is unsatisfactory.
2. The Chancellor or designee shall review the appeal and render a final decision in

writing to the complainant within thirty (30) calendar days after receipt of the appeal, unless the appeal involves complex issues or requires extensive investigation, in which case the decision will be made within a reasonable period of time. In the event of a need to extend the (30) thirty-day period, the complainant shall be so notified.

Withdrawal Procedure

1. Should a complainant decide to withdraw the complaint, Attachment E should be completed then filed with the E/AA Coordinator/Designee.

University of Hawaii
Community Colleges

Campus: _____

MEMO TO: EEO Officer/Designee
_____ Community College

Pursuant to the written complaint I have submitted with regard to charges of sexual harassment violations, I agree that my statement may be used during any investigation of my complaint. Appropriate administrators and the accused will have the opportunity to read the complaint. I further consent to the disclosure of information contained in my complaint to witnesses listed by me for the purpose of investigating my allegations.

For Office Use: Name: _____

1. Case: _____ Signature: _____

2. Date Submitted: Date: _____

COLLEGE: _____

Date Case Received: _____

SUGGESTED
SEXUAL HARASSMENT
COMPLAINT FORM

Name of Complainant: _____ Date: _____

Title: _____

Work Address: _____ Phone: _____

1. Name of the individual(s) who allegedly sexually harassed you?
2. What did the individual(s) say or do?
3. What were the circumstances under which the alleged harassment occurred?
4. When did it happen?
5. Where did it occur?
6. Did anyone else besides yourself see or hear what happened?
7. What was your response?
8. What was the response of the individual(s)?
9. Has the individual(s) previously engaged in conduct toward you which you believe constituted sexual harassment? If so, please describe each previous incident. Was a complaint filed?

10. What was your response on these previous occasions?

11. How may this situation be resolved for you?

Signature of Complainant

Date

Signature of EEO/AA Coordinator

Date

Use attachments, as necessary

NOTICE OF EMPLOYEE RIGHT TO REPRESENTATION

_____, do you know that you are in the presence of _____,
Respondent

who will be investigating a complaint filed against you? Yes ____ No ____.

I wish to advise you that I am going to ask you questions about an alleged sexual harassment offense(s) which occurred on _____ at _____
Date Location
against _____.

Complainant

But first I want to inform you of certain employee rights to representation that you are entitled to under the provisions of a legally recognized employer-employee agreement relating to representation.

Before I ask you any questions, you must understand your right to have a union representative present during the interview or to seek advice on the matter.

Do you want your union representative present? Yes ____ No ____

Would you like to tell me what happened at this time? Yes ____ No ____

Signed: _____
Name

Date: _____

Witnessed by:

Name

Date Time

UNIVERSITY OF HAWAII COMMUNITY COLLEGES

SUBJECT: Withdrawal of Complaint and Release

Charge _____

Date(s) of alleged violation _____

Date of Complaint _____ Case No. _____

I, _____, after clear and careful consideration, have decided not to testify in the above case.

I fully understand that the aforesaid charges cannot be investigated or resolved without my testimony and, therefore, must be dismissed by the University of Hawaii.

Accordingly, acting on behalf of myself and my representative, I hereby withdraw my complaint and release and forever discharge the State of Hawaii, the University of Hawaii, and all their past and present officers, employees, agents, and all others connected with the State of Hawaii or the University of Hawaii, from any and all claims, demands, actions and causes of actions or suits at law or in equity, known or unknown, concerning the actions giving rise to or otherwise related to the aforesaid charges.

I have read the foregoing and fully understand all of its terms and legal significance. I am signing this withdrawal and release freely, voluntarily and under no coercion or duress from anyone.

Signature of Victim/Complainant

Date