

## **Policy For Adjudicating a Complaint of Harassment or Unlawful Discrimination**

(Adopted by Administrative Cabinet 8/13/97)

### Introduction

The University of Arkansas at Monticello is committed to providing educational opportunities to all qualified students and employment opportunities to all persons, regardless of their economic or social status, and will not discriminate on the basis of race, color, religion, creed, gender, ethnic or national origin, disability, age, or any legally protected class.

It is the policy of the University to prohibit harassment and unlawful discrimination. This prohibition applies equally to male and female faculty, staff, administration, students, and to all other persons on premises subject to University control and to those engaged to further the interests of the University.

The University explicitly condemns sexual harassment as a violation of an individual's human rights and dignity and as a form of discrimination based upon gender. It is the policy of the University to prohibit sexual harassment in any form.

Employees and students who engage in harassment or unlawful discrimination shall be subject to applicable disciplinary processes. Those who engage in harassment or unlawful discrimination may also be subject to civil and/or criminal penalties.

### Definitions

"Unlawful discrimination" results when an employment or academic decision affecting an individual is biased by the individual's race, color, religion, creed, gender, ethnic or national origin, disability, age, or any other legally protected characteristic.

"Harassment" consists of unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's protected status, such as gender, color, race, ancestry, religion, national origin, age, disability, medical condition, marital

status, veteran status, citizenship status, or other protected group status. Harassment includes conduct that denigrates or shows hostility or aversion toward an individual because of his/her protected status or that of his/her relatives, friends, or associates.

"Sexual harassment" deserves special mention, as it is a form of gender discrimination and consists of unwelcome sexual advances, requests for sexual favors, and other physical, verbal, or visual conduct based on gender. This conduct is unlawful when: submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational benefits or services; submission to or rejection of such conduct is used as the basis for employment or academic decisions affecting the individual; or such conduct unreasonably interferes with an individual's professional or academic performance. Sexual harassment may include, but is not limited to, such actions as: sex-oriented verbal "kidding", "teasing", or jokes; foul or obscene language or gestures; display of foul or obscene printed or visual material; physical contact such as patting, pinching, or brushing against another's body; and demands for sexual favors.

### Complaint Procedures

The University seeks to eliminate harassment and unlawful discrimination by encouraging employees and students to promptly report problems or complaints. Any student or employee may contact the Human Relations Officer, Administration Building, 460-1033, to receive direction on the procedure to be followed in the resolution of a complaint.

Employee complaints. Employees are to follow the steps as outlined in this document.

1. Initial procedure. An initial course of action for any employee to take is to tell or otherwise inform the offending party that he/she considered the conduct unwelcome and that it must stop. This course of action is especially important in cases of less serious or non-physical harassment. In situations involving more serious or physical harassment, this course of action may not be feasible, in which case the complainant can begin the process with the Informal Procedure.

2. Informal procedure. The goal of the informal complaint is to ensure that the alleged offending conduct ceases and that the matter is resolved promptly at the lowest possible level. No disciplinary action will be taken as a result of the informal complaint procedure.

Under the informal procedure, complaints should be made to the immediate supervisor of the complainant.\* The person receiving the complaint is to make

the Human Relations Officer aware of the complaint. The immediate supervisor

will assist the complaining employee in clarifying whether unlawful discrimination or harassment may be occurring and in determining options, including the pursuit of more formal action. The immediate supervisor will give assistance and offer suggestions as to how the issue might be resolved. The immediate supervisor may be asked to serve as a mediator to talk to the other person(s) to see whether an informal resolution of the issue can be reached.

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\*In the event that the immediate supervisor is the subject of the complaint, the complaint shall go to the next level of supervision.

If resolution is reached under this process, no further action(s) will be taken, and the matter will be considered closed. No documentation will be placed in the permanent records of the employee(s), but documentation will be placed in a confidential file maintained in the Human Relations Office.

3. Formal Procedure. The filing of a written, signed complaint is required for the matter to be formally investigated and a determination made as to whether harassment or unlawful discrimination has occurred.

Formal complaints against faculty, staff, or administration should be submitted

to any Vice Chancellor within 30 calendar days of the most recent alleged conduct. The Vice Chancellor shall provide a copy of the complaint to the Human Relations Officer and to all other UAM Vice Chancellors.

Formal complaints of employees against students should usually be submitted within 30 calendar days of the most recent alleged conduct to the Assistant Vice Chancellor for Student Services. Student offenses are to be processed through the procedures set forth in the discipline section of the UAM Student Handbook.

Formal complaints against faculty, staff, or administration are to be processed as follows:

Upon receipt of the formal written complaint, the Human Relations Officer shall provide a copy to the individual(s) against whom the complaint is lodged, together with a copy of these procedures. From the Human Relations Committee, \*\* the Officer shall select a panel of five individuals to conduct a full investigation into the matter. In the event that the Human Relations Officer is the subject of the complaint, the Chancellor shall appoint a designee to serve in place of the Human Relations Officer.

Within ten working days following its appointment, the panel shall make a written report of its findings to the Human Relations Officer and shall submit to the Officer all evidence gathered in the course of the investigation. The Human Relations Officer may also interview the panel to discuss its findings.

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\*\*The Human Relations Committee shall contain 12 employees, who shall be appointed by the Chancellor by September 1 each year and who shall serve as a resource pool. These Committee members shall be regular, full-time employees chosen from classified staff, non-classified staff, and faculty. The Human Relations Committee shall also contain student members appointed by the Chancellor; however, students shall not serve on the investigative panel.

After receipt of the panel's written report, the Human Relations Officer shall, within three working days, complete a review of the panel's findings, make a written recommendation to all UAM Vice Chancellors, and forward to the Vice Chancellors all the materials gathered.

Within three working days following receipt of the recommendation and materials, the Vice Chancellors shall confer; and the Vice Chancellor having supervision of the alleged perpetrator shall render a decision and take any action deemed necessary. Discipline may be imposed for inappropriate conduct without regard to whether the conduct constitutes a violation of the law and even if that conduct does not rise to the level of violation of this policy. The Vice Chancellors shall advise all interested parties in writing of the outcome, although not necessarily all details of the actions the University has taken.

Within five working days of receiving written outcome of the Vice Chancellor's decision, either or both parties to the complaint shall have the right to appeal the Vice Chancellor's decision or action to the Chancellor. If the complaint is against the Chancellor, the appeal shall go to the UA System President. The person to whom the appeal is made shall review all aspects of the case and decide the matter within five working days. The decision of this person shall be final pursuant to his/her delegated authority.

Via the formal procedure, if the charges are substantiated and actions are taken, then documentation pertaining to the complaint and actions taken will be placed in the permanent file of the employee(s) receiving the discipline. If, however, accusations are not confirmed and action is not taken, documentation relating to the complaint will not be placed in any employee's permanent file but will be maintained in a confidential file in the Human Relations Office.

### Disclosure

Throughout the complaint procedures, every possible effort will be made to ensure the confidentiality of the parties involved. However, the University's obligation to stop unlawful discrimination or harassment means that it cannot fail

to take appropriate action and that confidentiality cannot always be guaranteed.

### Retaliation

Retaliation against parties directly or indirectly involved in any discrimination or harassment complaint will not be tolerated and will be considered a separate complaint that may merit the imposition of sanctions.

### False Reports

Willfully making a false report of unlawful discrimination or harassment is a serious offense. Any person who willfully makes or participates in making a false or frivolous report will be subject to disciplinary action.