

A RESOLUTION TO ENDORSE REINSTATEMENT OF THE INTERIM POLICY AND PROCEDURES GOVERNING SEXUAL HARASSMENT COMPLAINTS, AS ORIGINALLY ADOPTED BY THE FACULTY SENATE IN RESOLUTION 98/5, WITH CERTAIN FURTHER AMENDMENTS (04/3)

WHEREAS, in Resolution 98/5, adopted on December 11, 1998, the Faculty Senate (i) endorsed the Interim Policy and Procedures Governing Sexual Harassment Complaints, as amended (the “Interim Policy and Procedures endorsed in Resolution 98/5”), and recommended the promulgation of that document to the University community; (ii) recommended that an ad hoc committee be jointly appointed by the Vice President for Academic Affairs and the Chair of the Faculty Senate Executive Committee; and (iii) recommended that the ad hoc committee review the Interim Policy and Procedures as endorsed in Resolution 98/5 and report its recommendations to the Faculty Senate with regard to any proposed amendments to that document; and

WHEREAS, in Resolution 99/6, adopted on May 5, 2000, the Faculty Senate reviewed and endorsed, with a number of amendments, the ad hoc committee’s proposed Policy and Procedures Governing Sexual Harassment Complaints (“Resolution 99/6 Document”), as a proposed replacement for the Interim Policy and Procedures endorsed in Resolution 98/5; and

WHEREAS, the University Administration referred the Resolution 99/6 Document to outside counsel and, on January 4, 2001, the Administration issued a “Revised Draft,” which significantly changed the Resolution 99/6 Document and incorporated a number of provisions that the Faculty Senate had specifically rejected in adopting Resolution 99/6; and

WHEREAS, in Resolution 00/6, adopted on April 27, 2001, the Faculty Senate withheld its endorsement of the “Revised Draft” and “urgently request[ed] the University President to suspend acceptance of the Revised Draft and direct the preparation , in consultation with the Faculty Senate, of a re-draft of the Sexual Harassment Policies and Procedures with the goal of more fairly balancing the procedural rights of the respondents with the creation of an appropriate process that does not discourage complainants”; and

WHEREAS, in a memorandum dated June 27, 2001, from the President to the Chair of the Executive Committee of the Faculty Senate, the Administration stated that its response to Resolution 00/6 was “[i]n process”, but no further response to Resolution 00/6 has been presented to the Faculty Senate; and

WHEREAS, during the period from December 11, 1998, to June 25, 2004, members of the Faculty Senate Executive Committee and other members of the Faculty Senate understood that the Interim Policy and Procedures endorsed in Resolution 98/5 remained in force as the document governing sexual harassment complaints in which faculty members were named as parties; and

WHEREAS, on June 25, 2004, in response to an inquiry from the Chair of the Executive Committee regarding notification procedures followed in a recent sexual harassment investigation, the Administration provided the Executive Committee with a document designated as “Interim Policy and Procedures Governing Sexual Harassment Complaints (Revised 4/14/99)” (the “4/14/99 Revision”), which the Executive Committee learned was posted on the University’s website along with other University policies; and

WHEREAS, the Faculty Senate was not consulted when the Administration prepared the 4/14/99 Revision, and, prior to June 25, 2004, the Faculty Senate was not notified that the Administration had adopted the 4/14/99 Revision and had posted that document on the website for University policies; and

WHEREAS, based on its review of the 4/14/99 Revision, the Executive Committee determined that the 4/14/99 Revision made twelve significant changes to the Interim Policy and Procedures endorsed in Resolution 98/5, with many of those changes affecting academic freedom and the due process rights of complainants and respondents in sexual harassment proceedings; and

WHEREAS, (i) Exhibit A attached hereto sets forth the Interim Policy and Procedures endorsed in Resolution 98/5, as marked to show all of the changes made in the 4/14/99 Revision; and (ii) Exhibit B attached hereto summarizes the twelve most significant changes that were made in the 4/14/99 Revision;

WHEREAS, Article IX of the Faculty Code recognizes fundamental principles of shared governance that promote cooperation and consensus in decision making among the regular, active-status faculty, the officers of the University Administration, and the Board of Trustees; and, in particular, Article IX.B. states that “[t]he faculty cannot perform an effective and responsible role in University decision making without the cooperation of the administrative officers of the University. . . . Faculty bodies charged with responsibilities for particular policy and planning areas are entitled, to the extent feasible, to be informed sufficiently in advance of important decisions within their areas of competence to be able to provide their advice or recommendations to the appropriate University officials”; and

WHEREAS, in recognition of the foregoing principles of shared governance, Article I, Section 2 of the Faculty Organization Plan provides that “the Faculty Senate . . . shall be a representative body acting for the Faculty as a whole in legislative and advisory capacities”; accordingly, the Administration has followed a long-established practice of referring to the Faculty Senate, for its advice and recommendations, proposed University policies with a significant potential impact on the faculty before such policies are adopted or implemented by either the Administration or the Board of Trustees; and

WHEREAS, the Faculty Senate Executive Committee has expressed to the Administration its firm belief and great concern that the Administration’s adoption and implementation of the 4/14/99 Revision, without prior consultation with or notice to the

Faculty Senate, represented a clear departure from the principles, practice, and tradition of shared governance at The George Washington University; and

WHEREAS, in response to the expressions of the Faculty Senate Executive Committee, the Administration has agreed to reinstate the Interim Policy and Procedures endorsed in Resolution 98/5, with certain amendments, in accordance with the following understandings:

- (1) In adopting this Resolution 04/3, the Faculty Senate will endorse the following amendments to the Interim Policy and Procedures endorsed in Resolution 98/5: (a) the Code of Student Conduct will govern formal complaints in which both parties are students or the respondent is a student, (b) the Manual of Personnel Policies will govern formal complaints in which both parties are staff members, (c) persons who have concerns or potential complaints about inappropriate sexual behavior may contact, in addition to the Sexual Harassment Coordinator, the Director of Equal Employment ~~Activities~~ Opportunity, the Dean of Students, or the Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations, but each of those persons will refer all such matters to the Coordinator, and (d) a formal complaint hearing will be closed to the public if either party so requests [new provision] or if the formal complaint panel so determines [existing Senate provision]; and
- (2) The Interim Policy and Procedures endorsed by Resolution 98/5 and amended by Resolution 04/3 will take effect upon the Faculty Senate's adoption of this Resolution and will continue in effect during the remainder of the Faculty Senate's 2004-05 term; and
- (3) The Faculty Senate and the Administration will use their best efforts to agree on a final policy and procedures governing sexual harassment before the expiration of the Faculty Senate's 2004-05 term; to that end, this Resolution will authorize the creation of a joint task force to prepare a consensus document that will be reported to the Faculty Senate's Committee on Professional Ethics and Academic Freedom ("PEAF Committee") for its expeditious review and, following such review, the consensus document will be referred to the Faculty Senate with the PEAF Committee's recommendations; and
- (4) In negotiating a consensus document, representatives of the Administration will not be bound by the Interim Policy and Procedures endorsed in Resolution 98/5 and amended by Resolution 04/3, it being understood that the Administration has agreed to reinstate such Policy and Procedures in order to restore a spirit of comity and trust with the Faculty Senate, and in furtherance of the principles of shared governance; and

WHEREAS, attached as Exhibit C hereto is the Interim Policy and Procedures Governing Sexual Harassment Complaints as endorsed in Resolution 98/5, as marked to show the amendments needed to satisfy the Administration's requests set forth in paragraph (1) of the foregoing recital and to make a small number of further technical and clarifying changes; **NOW THEREFORE**

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

- (1) That the Faculty Senate endorses the "Interim Policy and Procedures Governing Sexual Harassment Complaints" in the form attached hereto as Exhibit C, and recommends that such policy and procedures take effect in the University community as of the date of the Faculty Senate's adoption of this Resolution and continue in effect during the remainder of the Faculty Senate's 2004-05 term; and
- (2) That the "Interim Policy and Procedures Governing Sexual Harassment Complaints," as amended and endorsed by this Resolution, be referred to a joint task force appointed by the Executive Vice President for Academic Affairs and the Chair of the Executive Committee of the Faculty Senate for the purpose of drafting a consensus final policy and procedures governing sexual harassment complaints, which will be reported to the Committee on Professional Ethics and Academic Freedom of the Faculty Senate ("PEAF Committee") for its expeditious review and, following such review, will be referred to the Faculty Senate with the PEAF Committee's recommendations; and
- (3) That the joint task force, the PEAF Committee and the Faculty Senate will use their best efforts to recommend, prior to the expiration of the Faculty Senate's 2004-05 term, a final policy and procedures governing sexual harassment for approval and implementation by the University Administration.

Executive Committee of the Faculty Senate
November 3, 2004

Adopted, as amended, November 12, 2004

Adopted, as amended, pursuant to Faculty Senate Resolution 04/3, (also adopted, as amended) on November 12, 2004

INTERIM POLICY AND PROCEDURES GOVERNING SEXUAL HARASSMENT COMPLAINTS

Introduction

The George Washington University reaffirms its commitment to maintaining a positive climate for study and work in which individuals are judged solely on relevant factors, such as ability and performance, and are free to pursue their academic and work activities in an atmosphere that is free from coercion and intimidation. Sexual harassment is inimical to such an atmosphere and will not be tolerated.

Sexual Harassment Policy and Procedures

1. The University has adopted a definition of sexual harassment that will be applied in determining whether or not particular conduct constitutes sexual harassment. This definition parallels Section 1604.11 of the Equal Employment Opportunity Commission Guidelines on Discrimination Because of Sex. Sexual harassment is defined as:

Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made explicitly or implicitly a term or condition of academic evaluation, advancement, or employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for decisions relating to evaluation of the academic performance or employment of the individual, (3) such conduct has the purpose or effect of substantially interfering with an individual's academic or work performance or limiting participation in University programs, or (4) the intent or effect of such conduct is to create an intimidating, hostile, or offensive academic or work environment to a reasonable person.

This policy acknowledges that conduct that has the effect of sexual harassment may occur without regard to the gender of either party.

In accordance with the statement on academic freedom as outlined in the Faculty Code, course content, discussion (unless such discussion involves unwelcome verbal conduct of a sexual nature that is persistent, pervasive, severe, and not germane to course content), emphasis, textbooks and other assigned materials are specifically exempted from coverage. The sexual harassment policy refers to personal conduct.

Violation of this policy may lead to disciplinary action up to and including expulsion or termination.

2. Relationships that might be appropriate in other circumstances may be inappropriate when one of those involved must exercise professional judgment and responsibility over the

other. This constraint applies to faculty members, employees, graduate students, and any other members of the University community in supervisory or evaluative roles.

Individuals in supervisory or evaluative roles should be aware that any personal relationship explicitly or implicitly of a sexual nature with their subordinates, even when both parties have consented to it, risks possible formal action against them by the other participant or by a third party. It is the administrator, instructor, or other individual responsible for the evaluation of the work product of the other participant in the relationship who, by virtue of that special responsibility, will be held accountable.

3. Retaliation against a person who complains of sexual harassment is prohibited. Allegations of retaliation, by the person accused of sexual harassment or by any other person, will be investigated and may result in disciplinary action.

4. A person making capricious or frivolous allegations of sexual harassment may be subject to disciplinary action.

5. A member of the University community who believes that behavior of a sexual nature in the academic or work environment may be inappropriate may initiate a confidential consultation by contacting the Office of the Vice President and General Counsel (994-6503). That Office will assign a Coordinator and arrange a consultation. Consistent with the procedures set forth in Appendix A, Section A, Confidential Consultation, the Coordinator will make sure that the individual has a copy of the sexual harassment policies and procedures, respond to any questions about them, and assist the individual in developing strategies to deal with the situation. A member of the University community who believes that behavior of a sexual nature in the academic or work environment may be inappropriate may also discuss the issue with the Director of the Office of Equal Employment ~~Activities~~ Opportunity, the Dean of Students, or the Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations. Those individuals will refer such matters to the Coordinator.

6. If the individual or the University wishes to file an informal complaint, the procedure set forth in Appendix A, Section B, Informal Complaint, will be followed.

7. If the allegations of sexual harassment are not satisfactorily resolved through the informal complaint process, a formal complaint may be filed. A formal complaint may be initiated by the person making the allegations or the person against whom the allegations have been made, or by the University. The procedures for the formal complaint process are set forth in Appendix B, Formal Complaint Process-Sexual Harassment.

8. If the informal complaint process or the formal complaint process results in a determination that sexual harassment has occurred, the findings and recommendations shall be referred to the appropriate University official for imposition of corrective action or sanctions. Possible sanctions may include, but are not limited to, oral warning, suspension, expulsion, or termination of employment subject to the provisions of law, of applicable University policies, and of the Faculty Code.

9. These procedures are intended to encourage resolution of a complaint of sexual harassment at the earliest possible stage. At the same time, where such resolution is not possible, these procedures provide for a more formal review of the situation by individuals not party to the case, and a final decision based upon that review. In providing these procedures, it is the intention of the University to carry them out in an equitable and timely manner. However, in extenuating circumstances, it may not be possible to adhere to established time frames, and extension of time shall not be construed as failure to follow established procedures.

10. All questions regarding interpretation of this policy, the procedures for the informal complaint process, or the procedures for formal complaints shall be resolved by the Office of the Vice President and General Counsel. The interpretation of the Office of the Vice President and General Counsel shall be subject to the provisions of law, applicable University policies, and of the Faculty Code.

Appendix A

INFORMAL COMPLAINT PROCESS - SEXUAL HARASSMENT

A. CONFIDENTIAL CONSULTATION

1. A member of the University community who is uncomfortable with a situation or behavior of a sexual nature which may be inappropriate (even though the person is not sure whether the conduct constitutes sexual harassment) may initiate a confidential consultation to discuss the matter. The individual should contact the Office of the Vice President and General Counsel (994-6503). The Office will assign a Coordinator and arrange an appointment for the consultation. An individual may also discuss the issue with the Director of the Office of Equal Employment ~~Activities~~ Opportunity, the Dean of Students, or the Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations, who will refer the matter to the Coordinator.

2. The confidential consultation consists of one or more meetings between the Coordinator and the individual requesting the consultation. The Coordinator will make sure that the individual has received a copy of the policies and procedures governing sexual harassment complaints and will respond to any questions about the policies and procedures.

3. Unless the University or the individual requesting the consultation decides to pursue an informal complaint, the consultation and the identity of the individual will remain confidential, to the extent practicable, and no other parties or University officials will be informed. A record of the consultation prepared by the Coordinator will be maintained by the Office of the Vice President and General Counsel, and kept confidential to the extent practicable.

4. The Coordinator will take action based on the consultation, including, but not limited to, clarifying and resolving the matter with the individual, pursuing an investigation and

continuing the informal complaint process, recommending counseling or other assistance or alternative action, or determining that no action is necessary.

5. When the Coordinator has reason to conclude that criminal conduct may have occurred or that it is necessary to protect the health or safety of any individual, the University may refer the matter to the appropriate authorities. A determination will be made by the Office of the Vice President and General Counsel.

6. While there are no specific time limits for requesting a confidential consultation or pursuing an informal complaint, persons who believe that they have been subject or are being subjected to sexual harassment are encouraged to seek assistance from the University through these procedures as soon as possible.

B. INFORMAL COMPLAINT PROCESS

1. If the University or the person requesting the confidential consultation decides to pursue an informal complaint, the Coordinator will conduct an investigation.

2. The Coordinator will request that the person alleging harassment (the “Complainant”) provide an account of the facts and circumstances of the alleged harassment. The Coordinator may request a signed statement from the Complainant and may assist the Complainant with the preparation of the signed statement. The Coordinator will then conduct an investigation of the complaint, including notice to the person accused of harassment (the “Respondent”).

3. If the Complainant declines to prepare a written statement, the Coordinator will prepare a written summary of the complaint based on the confidential consultation and conduct an investigation of the allegations.

4. Upon initiating an investigation, the Coordinator may inform the appropriate University officials—who would be charged with recommending or implementing any corrective or disciplinary action, of the informal complaint and that an investigation of the allegations is being conducted.

5. The process and scope of the investigation are at the discretion of the Coordinator.

6. Absolute confidentiality is rarely possible. However, the Coordinator will maintain confidentiality to the extent practicable and will advise the parties and all persons interviewed during the investigation (or notified of the investigation) of the need for discretion and confidentiality. Disregard for confidentiality may subject an individual to disciplinary action.

7. Upon concluding the investigation, the Coordinator will inform the Complainant and the Respondent of his or her findings and any recommendations for resolving the matter between the parties or recommendations that will be made to the appropriate University officials for further action.

8. The investigation of an informal complaint and the preparation of findings and recommendations by the Coordinator shall be completed as soon as reasonably possible given the circumstances.

9. The Coordinator will inform the University officials initially notified of the investigation (see § B.4) of the Coordinator's findings and any recommendations for corrective or disciplinary action. Any corrective or disciplinary action taken must be consistent with the provisions of law, applicable University policies, and the Faculty Code and be within the authority of the responsible University officials.

10. The responsible University Official shall provide the parties with a notice of corrective or disciplinary action taken, if any, along with a copy of the Coordinator's findings and recommendations, if any.

Appendix B

FORMAL COMPLAINT PROCESS - SEXUAL HARASSMENT

A. INITIATION OF THE FORMAL COMPLAINT PROCESS

1. If either party to the informal complaint process is dissatisfied with the outcome of the informal complaint, he or she may file a formal complaint.

2. A formal complaint must be filed within fifteen (15) business days after the receipt of notification from the responsible University official of the findings and recommendations resulting from the informal complaint process and of any corrective or disciplinary action taken based on the informal complaint process.

3. To initiate a formal complaint, the party must submit to the Coordinator a signed, written request to proceed with a formal complaint. The Coordinator will inform the requesting party of the specific complaint process that will be followed and provide a copy of the applicable procedures.

4. The specific formal complaint process that will be used depends on the status of the parties, as follows:

a. The Code of Student Conduct will govern the formal complaint process when both parties are students or when the Respondent is a student or a student organization, regardless of the status of the Complainant.

b. The Manual of Personnel Policies will govern the formal complaint process when both parties are staff members.

c. In the following circumstances, the formal complaint will be heard by a Formal Complaint Panel in accordance with the panel hearing procedures set forth below:

- (i) When the Complainant is a student and the Respondent is a faculty member or a staff member;
- (ii) When the Complainant is a faculty member and the Respondent is a staff member;
- (iii) When the Complainant is a staff member and the Respondent is a faculty member; or
- (iv) When the Complainant and the Respondent are both faculty members.

B. ESTABLISHMENT OF PANELS

1. Formal complaints of the types designated in § A.4.c. above will be heard by a five-member Formal Complaint Panel selected by the Associate Vice President for Human Resources (or the designee of the Associate Vice President) as described in Section D from a pool of eighteen (18) panelists who will be appointed as follows:

(a) Six (6) panelists will be appointed from the student body by the Senior Vice President for Student and Academic Support Services;

(b) Six (6) panelists will be appointed from among the members of the Faculty Senate Dispute Resolution Committee by the Chair of the Dispute Resolution Committee after consultation with the Executive Vice President for Academic Affairs; and

(c) Six (6) panelists will be appointed from the staff by the Vice President for Administrative and Information Services.

2. Each panelist will serve for a term of two (2) years. The appointing official should stagger the terms of appointment so that the terms of only three (3) of his or her appointees to the pool expire each year.

3. A panelist may be removed from the pool and replaced by another person at any time in the discretion of the appointing official. Vacancies in the pool of panelists should be promptly filled by the responsible appointing official.

4. Mandatory training will be provided for all appointees to the Formal Complaint Panel pool at the time of appointment and, as needed, on an ongoing basis. Training will be conducted by the Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations, the Dean of Students, and the Director of the Office of Equal Employment Activities Opportunity or their designees. Training shall include orientation in the roles and responsibilities of panel members, the complaint procedures, applicable policies, and other techniques and standards applicable to the complaint and hearing process.

C. INITIATION OF FORMAL COMPLAINT PANEL PROCEDURES

1. The written request to proceed with a formal complaint of a type designated in § A.4.c. above shall be filed with the Coordinator and shall include the following:

- (a) A request for a formal hearing;
- (b) A statement explaining the reasons why the findings or recommendations of the Coordinator should be modified or overturned; and
- (c) A statement of the relief requested.

D. SELECTION OF THE FORMAL COMPLAINT PANEL

1. When a formal complaint requiring a Formal Complaint Panel is received by the Coordinator, he or she shall forward the complaint to the Associate Vice President for Human Resources (or designee) who shall appoint the five-member panel on a rotating basis, as follows:

- (a) Two (2) panelists from the status group of the Complainant (faculty, student, or staff member);
- (b) Two (2) panelists from the status group of the Respondent (staff or faculty member); and
- (c) One (1) panelist from the remaining status group.

2. The goal of the Formal Complaint Panel process is to complete the formal complaint procedures within forty-five (45) business days of the receipt of the formal complaint request by the Coordinator. Therefore, the members of each Formal Complaint Panel should be designated and the Coordinator notified of their selection within five (5) business days.

3. As soon as the members of the Formal Complaint Panel have been designated, the Coordinator will notify both parties of the names of the panelists. Any party to the dispute may disqualify one member of the Formal Complaint Panel by peremptory challenge. Any party may also seek to disqualify any member of the Formal Complaint Panel for cause. Within three (3) days of the receipt of the notice, a party shall submit any challenge(s) in writing to the Associate Vice President for Human Resources. The Associate Vice President may, in his or her discretion, replace a challenged panelist with another member of the pool from the same status group.

4. A designated panelist who has a conflict of interest or is otherwise unable to serve on a Formal Complaint Panel shall recuse himself or herself by notifying the Associate Vice President.

E. FORMAL COMPLAINT PANEL ORGANIZATION

1. Within five (5) business days after the appointment of the Formal Complaint Panel, the panel members shall select a chairperson and review the request for a hearing.
2. The Formal Complaint Panel may request clarification or additional information from the Coordinator or from the parties. There shall be no ex parte communication between the members of the panel and either of the parties.

F. FORMAL COMPLAINT PANEL PROCEDURES - SUMMARY DECISION

1. The Formal Complaint Panel may issue a summary decision denying the request for a hearing and affirming the informal complaint process if the Formal Complaint Panel determines that the reasons presented for overturning or modifying the findings or recommendations of the Coordinator are without significant merit.
2. If the Formal Complaint Panel denies the request for a hearing, its decision will be in writing and include statements of reasons for denial of the request for a hearing. Copies of the Formal Complaint Panel's decision will be provided to the party who requested the hearing, the Coordinator, the official responsible for implementing corrective or disciplinary action, and the Associate Vice President for Human Resources.
3. Within fifteen (15) business days after receiving the summary decision of the Formal Complaint Panel, either party may appeal the decision to the Associate Vice President for Human Resources. The appeal shall be in writing and shall set forth the reasons why the summary decision of the Formal Complaint Panel should be overturned.
4. The Associate Vice President for Human Resources shall review the record including the request for hearing, the summary decision of the Formal Complaint Panel, and the written appeal. If the Associate Vice President determines that the Formal Complaint Panel followed the guidelines for summary denial of the request for a hearing, he or she shall affirm the decision of the Formal Complaint Panel.
5. If the Associate Vice President determines that the summary decision of the Formal Complaint Panel was not made in accordance with the guidelines, he or she will appoint a new Formal Complaint Panel from the remaining members of the Formal Complaint Panel pool. The new Panel may issue a summary decision or proceed with the hearing process.

G. FORMAL COMPLAINT PANEL PROCEDURES - SCHEDULING A HEARING

1. If the Formal Complaint Panel grants the request for a hearing, it will set the date and time for the hearing. If a new Formal Complaint Panel is appointed to conduct a hearing after a summary decision is overturned, the panelists will meet within a reasonable period of time, normally five (5) business days after their appointment, to select a chairperson and to set the date and time for a hearing. The hearing should be scheduled within a reasonable period of time, normally twenty (20) business days, after the Formal Complaint Panel is appointed.

2. The chairperson of the Formal Complaint Panel shall notify the parties of the date, time, and location of the hearing at least seven (7) business days prior to the hearing. Within seventy-two (72) hours after receiving notice of the hearing, a party with a scheduling conflict may submit a request to the chairperson for a postponement. The chairperson, after consulting the members of the Formal Complaint Panel, shall have the discretion to reschedule the hearing. All parties will be notified as soon as possible if the hearing is rescheduled.

3. If one or more of the parties does not appear for the hearing within sixty (60) minutes after the scheduled time, the Formal Complaint Panel shall decide whether to reschedule the hearing or to proceed.

H. FORMAL COMPLAINT PANEL PROCEDURES - CONDUCT OF HEARINGS

1. The chairperson of the Formal Complaint Panel shall preside over the hearing and make decisions on procedural issues. The hearing will be conducted in the following order:

(a) Preliminary Matters - the chairperson will introduce the parties and their counsel or advisors and the members of the Formal Complaint Panel; will review the order of proceedings and explain procedures governing the use of the tape recorder, and present a brief summary of the complaint.

(b) Opening Statements - the party requesting the hearing may make an opening statement. The responding party may then make an opening statement. Opening statements are limited to thirty (30) minutes in length.

(c) Presentation by the Party Requesting the Hearing - the party requesting the hearing may present testimony, provide documents or other evidence to the Panel, and present witnesses. Following the testimony of the party and each witness, the other party will be permitted to ask questions.

(d) Presentation by the Responding Party - the party responding to the request for hearing may present testimony, provide documents or other evidence to the Panel, and present witnesses. Following the testimony of the party and each witness, the other party will be permitted to ask questions.

(e) Closing Statements - the party requesting the hearing may make a closing statement. The responding party may then make a closing statement. Closing statements are limited to thirty (30) minutes in length.

2. Members of the Formal Complaint Panel may ask questions of the parties or witnesses at any time during the hearing.

3. The hearing will not be conducted according to strict rules of evidence; however, the chairperson of the Formal Complaint Panel may limit or exclude irrelevant or repetitive testimony.

4. When the hearing is lengthy or when it cannot be completed in one session for any

other reason, the chairperson of the Formal Complaint Panel may continue the hearing to a date and time acceptable to the parties and the members of the Formal Complaint Panel.

5. Each hearing will be electronically recorded on audiotape. A copy of the recording may be obtained by either party from the Coordinator at a reasonable cost upon written request.
6. The hearings shall be open to the public unless either party requests that the hearing be closed or the Formal Complaint Panel determines that it is in the best interest of the University and the parties that the hearing be closed.

I. FORMAL COMPLAINT PANEL PROCEDURES - WITNESSES

1. Each party may request witnesses to present testimony at the hearing and the Formal Complaint Panel may require the complainant to testify.
2. At least five (5) business days before the hearing, each party shall provide the Coordinator, the chairperson of the Formal Complaint Panel and the other party with a list of witnesses he or she intends to present at the hearing
3. The Formal Complaint Panel may request the appearance of additional witnesses. The Coordinator will arrange for the appearance of these witnesses.
4. Each party is responsible for notifying their witnesses of the date, time, and place of the hearing. A hearing will not automatically be postponed because a witness fails to appear.
5. All witnesses will be excluded from the hearing both before and after their testimony. A witness may be recalled at the discretion of the Formal Complaint Panel chairperson.
6. A University employee must notify his or her supervisor of the need to be absent from work to appear at a hearing. Employees will be paid while appearing at a hearing during working hours, but will not be paid for any other time spent on the complaint during or outside of working hours.
7. Supervisors and professors should be aware of the importance of hearings and not unreasonably withhold permission for appearance at a hearing. If an employee or student needs assistance in obtaining permission to appear at a hearing, he or she should contact the Coordinator.

J. FORMAL COMPLAINT PANEL PROCEDURES - ADVISORS

1. Each party may be accompanied by an advisor. The advisor may be an employee of the University, an attorney, or any other person selected by the party.
2. If either the Complainant or the Respondent plans to be accompanied by an attorney

or other advisor at the hearing, the Coordinator, the chairperson of the Formal Complaint Panel and the other party must be notified at least five (5) business days prior to the hearing.

3. The Formal Complaint Panel may request that a University furnished attorney or other advisor be present at any hearing to provide advice to the Formal Complaint Panel.
4. The University may have an observer present at any hearing.

K. DECISION OF THE FORMAL COMPLAINT PANEL

1. After the hearing, the Formal Complaint Panel will meet in a closed session to review the hearing and make a decision on the complaint. The decision must be approved by a majority of the members of the Formal Complaint Panel.
2. The decision of the Formal Complaint Panel shall be in writing and set forth the panel's findings of fact and conclusions.
3. The written decision of the Formal Complaint Panel shall be submitted to the Associate Vice President for Human Resources within thirty (30) calendar days after the conclusion of the hearing. The Associate Vice President will send a copy of the decision to both parties at their home addresses of record by courier, overnight mail, or certified mail (return receipt requested).
4. If it is the decision of the Formal Complaint Panel that sexual harassment did occur, the Associate Vice President for Human Resources shall forward a copy of the written decision to the University official responsible for recommending or implementing corrective or disciplinary action.

L. APPEAL OF THE DECISION OF THE FORMAL COMPLAINT PANEL

1. A party who is dissatisfied with the decision of the Formal Complaint Panel may file an appeal with the Executive Vice President for Academic Affairs. The appeal must be in writing and set forth the reasons why the decision of the Formal Complaint Panel should be modified or overturned. The appeal must be based on the hearing record and may not present new evidence or testimony.
2. An appeal must be filed within fifteen (15) business days of the receipt of the decision of the Formal Complaint Panel. If an appeal is not received by the deadline, the decision of the Formal Complaint Panel will be the final University decision on the complaint.
3. Efforts will be made by the Executive Vice President for Academic Affairs to issue a final decision on the appeal within twenty (20) business days. The decision of the Executive Vice President for Academic Affairs shall be the final University decision on the complaint.

4. When the decision of the Formal Complaint Panel is final, or when the final decision on appeal is issued, the Coordinator will provide a copy of the final decision to the University official(s) responsible for implementing corrective or disciplinary action. Any corrective or disciplinary action taken by the responsible University official shall be subject to the provisions of law, of applicable University policies, and of the Faculty Code, and be within the authority of the responsible University official.