



USM OFFICE POLICY AND PROCEDURE ON PROCEDURE ON SEXUAL HARASSMENT

(Approved by the Chancellor 11/12/2012)

I. PURPOSE AND APPLICABILITY

The purpose of this document is to establish a USMO Policy and Procedure on Sexual Harassment that informs employees of the importance of preventing sexual harassment in the USMO, establishes expectations for appropriate behavior, and sets out procedures for the reporting and investigation of alleged harassment. This policy applies to all individuals employed by USMO in any capacity, as well as to volunteers, students and contractors.

II. Background

Each USM institution is required to establish a procedure to implement BOR VI – 1.20 University of Maryland System Policy on Sexual Harassment.

III. DEFINITION:

For the purposes of this policy, sexual harassment is defined as

- A. Unwelcome sexual advances;**
- B. Unwelcome requests for sexual favors; or**
- C. Other behavior of a sexual nature where:**
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation in a USM sponsored program or activity; or**
 - 2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or**
 - 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or of creating a hostile educational or working environment.**

IV. GENERAL POLICY

- A. The USMO is committed to creating and maintaining an environment in which every individual can work without being harassed. Sexual**

harassment represents a failure in ethical behavior, and sexual exploitation of professional relationships will not be tolerated.

- B. Sexual harassment is a form of discrimination prohibited by federal and state law. Sexual harassment by employees is prohibited.
- C. Sexual harassment may also constitute a violation of criminal laws of the State of Maryland and the United States.
- D. Preventing sexual harassment is a responsibility of the entire USMO community, and the USMO has made this a priority. However, the investigation or resolution of a complaint also depends upon the initiative and continuous cooperation of the person who feels injured. Similarly, allegations of sexual harassment are extremely serious, with potential for great harm to all persons if ill-conceived or without foundation. The USMO is committed to protecting the rights of all parties involved in a complaint of sexual harassment.
- E. In assessing whether a particular act constitutes sexual harassment forbidden under this policy, the standard shall be the perspective of a reasonable person within the USMO community. The rules of common sense and reason shall prevail. Allegations of sexual harassment shall be judged with attention to the facts particular to the case and the context in which the alleged incident(s) occurred.
- F. Conduct prohibited under this policy may manifest itself in many different ways. Sexual harassment may, for example, be as undisguised as a direct solicitation of sexual favors, or solicitation accompanied by overt threats. Harassment may also arise from behavior that has the effect of creating a hostile working environment. In this regard, the following types of acts, if pervasive and continuous, are more likely-than-not to result in allegations of sexual harassment:
 - 1. Harassment through sexually suggestive comment concerning a person's body or behavior, and sexual demands.
 - 2. Subtle or overt pressure to comply with sexual demands.
 - 3. Unwelcome remarks about another person's clothing, body, sexual activities, sexual preferences, or sexual orientation; unwelcome flirting, teasing, jokes, or gestures that are sexual in nature.
 - 4. Unnecessary touching, pinching, patting, or indecent exposure of one's own private body parts.

5. Unwarranted staring at another person's body.
 6. Unwanted communications of a sexual nature in writing, by telephone, or by other means.
 7. Requests or demands for sexual favors accompanied by implied or overt threats about the workplace, including assignments, promotions, discipline, references, etc.
 8. Repetition of unwanted invitations for dates.
 9. Physical assault of a sexual nature, up to and including attempted or actual rape.
- G. Sexual harassment may occur within a variety of relationships. It may occur where no relationship exists between the parties other than being co-employees. Especially injurious, on the other hand, is harassment in relationships characterized by inequality of power, where one party has institutional authority over the other. Typically, such relationships are found between a manager and an employee. Such relationships can be immediate, or based upon future expectations, e.g., the need for further evaluations and references. Sexual harassment may occur between persons of the same or different sexes.
- H. Education and awareness are the best tools for the elimination of sexual harassment, and all USMO employees are required to complete a mandatory Sexual Harassment Awareness training program (see USM Office Policy on Training and Development, Section III.A.1). The USMO is committed to taking appropriate action against those who violate the provisions of the policy. The USMO is also committed to protecting targets of harassment from retaliation.

V. PROCEDURES

Individuals who believe themselves subjected to an incident of sexual harassment should be aware that there are many ways to bring it to the attention of the USMO, and where proper, to obtain redress or protection. Both an informal and a formal procedure are available within USMO. Complaints may also be processed externally by the U.S. Equal Employment Opportunity Commission, the U.S. Department of Education (Office of Civil Rights), and the Maryland Commission on Human Relations.

A. Informal Complaint Procedures

1. **Reporting a Complaint.** An incident of sexual harassment may be reported verbally or in writing to:
 - a. A Unit Head, Assistant or Associate Vice Chancellor, or Vice Chancellor, including an individual's supervisor or the next-level supervisor; or
 - b. A representative in the USM Office of Human Resources.

2. **Investigating a Complaint.**

- a. **Referral to Human Resources Office.**

When an individual receives a report of sexual harassment, he or she should promptly notify the Assistant Vice Chancellor for Human Resources before taking any action to investigate or resolve the matter informally. The Assistant Vice Chancellor for Human Resources will normally manage and coordinate all matters relating to complaints with the advice and assistance of legal counsel. Complainants will be advised of relevant USMO policies and procedures, and the informal and formal means of resolving the matter will be explained.

- b. **Confidentiality and Other Considerations**

In any sexual harassment investigation, reasonable consideration shall be given to the situation and the wishes of the complainant. The investigation of a complaint will include a discussion with the person accused of sexual harassment. Every effort will be made to conduct the investigation as confidentially as is feasible.

- c. **Investigation Results**

The findings of the investigation shall be confidentially reported as appropriate to the Chancellor, the relevant Vice Chancellor, Unit Head, or supervisor for any necessary action. Sanctions for sexual harassment may range from reprimand to termination, depending upon the circumstances of the case.

B. Formal Complaint Procedures

1. Internal Grievance Process.

Formal USM grievance procedures for resolving sexual harassment complaints are available based on the employment category of the aggrieved person.

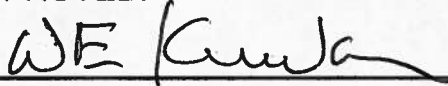
- a. Nonexempt and Exempt employees may file with the USMO Office of Human Resources under the BOR VII - 8.00 USM Policy on Grievances for Exempt and Nonexempt Staff Employees. Complaints must be filed within 30 calendar days of the action involved, or within 30 calendar days of the employee having had reasonable knowledge of the act
- b. Other persons who believe that they have been the subject of sexual harassment by an employee of the USMO should report the incident to the USMO Office of Human Resources.

2. Other Agencies that Address Sexual Harassment.

Complaints of sexual harassment may also be filed with the federal Equal Employment Opportunity Commission or the Maryland Commission on Human Relations.

To protect the legal rights and remedies available to a complainant through these agencies and federal courts and/or State courts, a complainant must comply with certain time limits and deadlines. Affected persons should contact the relevant agencies listed above to verify the time limits. Failure to meet the required deadlines may result in a loss of all rights to seek a legal remedy for a complaint of sexual harassment.

APPROVED:


Chancellor or Designee

November 12, 2012
Date