

# SEXUAL HARASSMENT POLICY

It is the policy of Merit Network (Merit) to maintain a work environment free of sexual harassment for staff. Sexual harassment is contrary to the standards of Merit. It diminishes individual dignity and impedes equal employment opportunities. Sexual harassment is a barrier to fulfilling Merit's research and service mission. It will not be tolerated at Merit. Sexual harassment violates Merit's policy against discrimination on the basis of sex. Sexual harassment is also illegal. It is prohibited in the employment context by Title VII of the 1964 Civil Rights Act and by Michigan's Elliott-Larsen Civil Rights Act, adopted in 1976.

A claim under this policy may be brought by Merit's staff or member of the Merit Community based on the conduct of any Merit employee. Persons who lodge sexual harassment complaints or participate in the investigation of such a complaint are protected from retaliation (e.g., adverse action or consequences) for those actions. Retaliation will not be tolerated at Merit. Sexual harassment can be a very serious matter having far-reaching effects on the lives and careers of individuals. Intentionally false accusations can have similar impact. A person who knowingly and intentionally files a false complaint under this policy is subject to discipline. Both a person who sexually harasses another, and a person who knowingly and intentionally files a false complaint under this policy, are subject to discipline.

An individual may engage in conduct of a sexual nature that may not be sufficiently severe, persistent or pervasive to constitute sexual harassment as described below, but is nonetheless inappropriate. Such conduct also will not be tolerated by Merit, is prohibited by the Merit and is subject to discipline, up to and including, termination of employment.

## Definition of Sexual Harassment

For the purposes of determining whether a particular course of conduct constitutes sexual harassment under this policy, the following definition will be used:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or participation in a Merit activity;
2. Submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual's employment, or participation in a Merit activity; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's employment or performance or creating an intimidating, hostile, offensive, or abusive environment for that individual's employment, or participation in a Merit activity.

Some examples of conduct that may constitute sexual harassment include, but are not limited to:

- Unwanted sexual statements – sexual or "dirty" jokes, comments on physical attributes, spreading rumors about or rating others as to sexual activity or performance, talking about one's sexual activity in front of others, and displaying or distributing sexually explicit drawings, pictures and/or written material.
- Unwanted sexual statements can be made in person, in writing, electronically (email, instant messaging, blogs, web pages, etc.), and otherwise.
- Unwanted personal attention – letters, telephone calls, visits, pressure for sexual favors, pressure for unnecessary personal interaction, pressure for dates where a sexual/romantic intent appears evident but remains unwanted, and stalking.
- Unwanted physical or sexual advances – touching, hugging, kissing, fondling, touching oneself sexually for others to view, sexual assault, intercourse, or other sexual activity.

Conduct alleged to be sexual harassment will be evaluated by considering the totality of the particular circumstances, including the nature, frequency, intensity, location, context, and duration of the questioned behavior. Although repeated incidents generally create a stronger claim of sexual harassment, a serious incident, even if isolated, can be sufficient.

This policy addresses intentional conduct. It also addresses conduct which results in negative effects even though such negative effects were unintended. Sexually-related conduct forms the basis of a sexual harassment claim if a reasonable person, in view of all the surrounding circumstances, would consider it sufficiently severe, persistent or pervasive as to interfere unreasonably with employment performance or participation in a Merit activity.

## SEXUAL HARASSMENT POLICY (CONT)

Sexual harassment most often occurs when one person has actual or apparent power or authority over another; however, it may also occur between individuals of equal status or rank within Merit. It is also possible for a person who is not in a position of power or authority over another to sexually harass that person, such as a supervisor being sexually harassed by a supervisee. Sexual harassment occurs between persons of the same gender and persons of different genders.

Alleged discriminatory behavior that does not include conduct of a sexual nature is not covered by this policy; however, the discriminatory conduct is addressed by other Merit policies prohibiting discrimination (e.g., sex, gender identity, gender expression, sexual orientation, etc.). In some cases, an individual may allege there has been discriminatory action in addition to unwelcome conduct of a sexual nature. In these instances, the matter is assessed under the policy prohibiting the type of discrimination alleged as well as this sexual harassment policy and any other applicable Merit policy.

### Consensual Relationships

Merit's nepotism policy precludes individuals from evaluating the work performance of others with whom they have intimate familial or close personal relationships, or from making hiring, salary, or similar financial decisions concerning such persons, without prior written approval. Issues of nepotism are addressed under Appointment of Relatives and Others with Close Personal or External Business Relationships.

### Response and Procedures

**Prevention and Education.** Merit is committed to preventing and eliminating sexual harassment of staff. To that end, this policy will be published on the Merit's Web site. Information regarding sexual harassment and this policy will be included in orientation materials for staff and made available in the Office of the Equal Employment Opportunity (EEO) Officer and other appropriate locations. In addition, appropriate educational sessions will be conducted by Merit on an ongoing basis to (1) inform staff about identifying sexual harassment and the problems it causes, (2) train personnel in the administration of this policy.

**Assistance with Sexual Harassment Concerns.** The EEO Officer is responsible for ensuring and monitoring Merit's compliance with federal and state nondiscrimination laws. However, a discrimination-free environment is the responsibility of every member of the community. Merit can take corrective action only when it becomes aware of problems. Therefore, Merit encourages persons who believe that they have experienced or witnessed sexual harassment to come forward promptly with their inquiries, reports, or complaints and to seek assistance within Merit. Individuals also have the right to pursue a legal remedy for sexual harassment in addition to or instead of proceeding under this policy.

**Confidential Counseling.** Information about or assistance with sexual harassment issues may be obtained from a variety of Merit resources. Prior to or concurrent with lodging a sexual harassment complaint, individuals may find it helpful to consult with a counselor or otherwise seek assistance. The following offices provide advice and support to individuals who believe they are experiencing sexual harassment. All information shared with these offices will remain confidential to the extent permitted by law and Merit policy. Discussions with representatives of these offices will not be considered a report to Merit regarding the problematic behavior and will not, without additional action by the complainant, result in intervention or corrective action.

- FASCCO – Faculty and Staff Counseling and Consultation Office (734) 936-8660
- SAPAC – Sexual Assault Prevention and Awareness Center (734) 998-9368

**Lodging a Complaint.** An individual may complain to Merit about alleged sexually harassing behavior or retaliation by contacting the EEO Officer or such officials as a Supervisor; Director or department head; or the appropriate Human Resources Office. In addition, any member of the Merit community may utilize appropriate internal and external resources for guidance and support during the investigation process.

**Investigation and Investigation Procedures.** Merit will handle sexual harassment complaints consistently with procedural guidelines developed to ensure prompt and equitable resolution of such complaints. Complainants and Respondents will be given copies of the procedural guidelines, and the guidelines will also be made readily available to the Merit community. The matter will then proceed to investigation or other form of effective and fair review. The purpose of an investigation, which will include interviewing the parties and witnesses, is to gather and assess evidence. During the course of an investigation, the investigating office will work collaboratively with other appropriate offices.

Possible outcomes of an investigation are (1) a finding that the allegations are not warranted or could not be substantiated, (2) a finding that the allegations are substantiated and constitute sexual harassment or inappropriate behavior and, if so, (3) referral to the appropriate administrative authority for corrective action.

## SEXUAL HARASSMENT POLICY (CONT)

**Corrective Action.** Corrective action could include a requirement not to repeat or continue the harassing or retaliatory conduct, a reprimand, denial of a merit pay increase, reassignment, suspension and termination. The severity of the punishment will depend on the frequency and severity of the offense and any history of past discriminatory or retaliatory conduct. A finding of sexual harassment may be cause for the separation of the offending party from Merit, in accordance with Merit procedures. Every effort will be made to assure Merit-wide uniformity of sanctions for similar offenses.

**Merit Action.** Merit may assume the role of a complainant and pursue a report or complaint of sexual harassment, either informally or formally. Merit may respond to complaints or reports by persons external to the Merit community about alleged sexually harassing conduct by Merit employees.

**Reporting Requirements.** To assure Merit-wide compliance with this policy and with federal and state law, the EEO Officer must be advised of all reported incidents of sexual harassment and their resolution. The EEO Officer will monitor repeated complaints within the same unit or against the same individual, where identified, to assure that such complaints are appropriately handled.

**Retaliation.** Merit will take appropriate steps to assure that a person who in good faith reports, complains about, or participates in an informal resolution or formal investigation of a sexual harassment allegation will not be subjected to retaliation. Merit also will take appropriate steps to assure that a person against whom such an allegation is made is treated fairly. Merit will also take appropriate follow-up measures to assure the goals of this policy are met. Persons who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with Merit using the same procedure for lodging a sexual harassment complaint.

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