

SALISBURY UNIVERSITY PROCEDURES FOR PURSUING COMPLAINTS OF SEXUAL OR OTHER DISCRIMINATORY HARASSMENT

Informal Complaint Procedure

Some discriminatory harassment complaints may initially be handled more appropriately by informal procedures. Students, exempt, nonexempt and contingent employees, and faculty should feel free to raise a concern about possible discriminatory harassment to any person in a position to advise them and with whom they feel comfortable. For example, these persons could include a faculty advisor, dean, department chair or director, the Director of Human Resources, the Fair Practices Officer, the Provost, or another University administrator. The Complainant and the recipient of the complaint should work together to decide additional steps necessary to resolve the complaint, and in many instances, they may conclude that no additional action need be taken. In all instances, however, the Fair Practices Officer should, at a minimum, be advised of the existence and the resolution of the complaint and, similarly, should advise the Director of Human Resources. In some cases, it may be necessary to refer the complaint formally to the University for a resolution even if the Complainant would prefer that this not occur. All reasonable efforts will be made to resolve the matter to everyone's satisfaction.

All persons involved should treat such complaints of harassment as confidential unless the law requires otherwise.

Formal Complaint Procedures

A. Filing a complaint

A person wishing to initiate a formal claim of discriminatory harassment or other behavior in violation of the Sexual and Other Discriminatory Harassment Policy shall file his or

her complaint in writing with the Fair Practices Officer within six months of the conduct at issue. The Fair Practices Officer is located in Room 233 of Holloway Hall. The complaint shall be signed by the Complainant and shall include the following information: a description of the allegations, with relevant dates, places, and statements made; the names of the person(s) involved; the names of any witnesses to the events in question; and the remedy requested. The Respondent, the person accused in the Complaint, shall be given a copy of the Complaint promptly by the Fair Practices Officer and shall submit a written response to the Fair Practices Officer within ten (10) days of receiving the Complaint. The Director of Human Resources also shall be advised of the existence of the complaint by the Fair Practices Officer.

Upon receipt of the written Complaint, the Fair Practices Officer shall begin an investigation into the claims. The investigation ordinarily will include a discussion with the Complainant, a discussion with the Respondent, interviews of any witnesses to the events, a review of any pertinent documents, and any other actions deemed appropriate by the investigator. The Fair Practices Officer shall make every effort to keep the investigation confidential, although this cannot be guaranteed, and shall seek assurances of confidentiality from all participants in the investigation. If feasible, no interviews with witnesses will be conducted before the interviews with the Complainant and Respondent are completed.

The Fair Practices Officer shall complete the investigation if possible within fifteen (15) days of receiving the Complaint. A written decision shall be prepared at the conclusion of the investigation, setting forth (1) a statement of the findings of fact concerning the alleged events; (2) a statement of the conclusion that a violation of University policy did or did not occur; and (3) a recommendation of a sanction. The possible sanctions include, but are not limited to, a letter of reprimand, a letter of apology, service to the University, counseling, demotion or

suspension, termination of employment, or expulsion from the University. These sanctions may be imposed even after a first offense, under appropriate circumstances. This written decision shall be provided to the Complainant, Respondent, and President when it is finalized.

B. Formal hearing

If either the Complainant or Respondent disagrees with any conclusion reached by the Fair Practices Officer, either may request a formal hearing by filing a written request with the President of the University within fifteen (15) days of the date of the written decision of the Fair Practices Officer. The request shall state which conclusions are disputed.

The President then shall promptly appoint a Hearing Committee of three persons, and one of these shall be designated by the President as the Presiding Officer. The committee members shall be chosen from the Discriminatory Harassment Panel, a group of six persons from the campus community who have received training in sexual and other forms of discriminatory harassment policy, law and procedures. No member of the Committee shall have been involved at any earlier stage of the process. The President shall advise the parties of the identities of the committee members. If either party has a reason to challenge the appointment of any member to the Committee hearing the case, he or she shall make the concern known to the President as soon as possible. The President shall make the final decision on the makeup of the Committee.

A hearing shall promptly be conducted. The Presiding Officer shall be in charge of organizing the hearing. He or she shall make all reasonable efforts to schedule the hearing at such time so that the Complainant and the Respondent can both be present. The Presiding Officer shall contact potential witnesses and arrange for their appearance at the hearing. Notice of the hearing shall be given at least five (5) days in advance.

The Presiding Officer may focus the hearing so that it concerns only those aspects of the

decision about which the parties disagree. The decision of the Fair Practices Officer shall be offered into evidence at the hearing, but it is entitled to no presumption of correctness. Neither the Complainant nor the Respondent shall be entitled to have an attorney at the hearing; each may be allowed an advocate from the University community who is not an attorney. If the Committee requests legal assistance, the University's attorney may be present at the hearing to provide advice related only to the procedures to be followed during the hearing.

The Complainant, the Respondent, and the Fair Practices Officer may all fully participate in the hearing, may present opening and closing statements, may call witnesses and examine and cross-examine witnesses, and may introduce documentary evidence. The questioning of the Complainant and Respondent shall be conducted by the parties' advocates or the Committee, and not by the parties themselves. Hearing Committee members also may question other witnesses. The Presiding Officer may exclude irrelevant, repetitious, or unduly prejudicial evidence. The Presiding Officer shall be in charge of gathering the documentary evidence that is presented at the hearing and transmitting it to the Fair Practices Officer after the Committee no longer needs it, so that a record is created.

Within fifteen (15) days of the conclusion of the hearing, the Hearing Committee shall issue a written report to the President containing its findings, conclusions, and recommendations on the matter. The written report shall be provided to the Complainant, Respondent, and Fair Practices Officer at that time.

Within fifteen (15) days of receiving the report, the President shall issue a final written decision. The President may accept, reject, or modify the findings and proposed sanction recommended by the Hearing Committee. The President's decision shall be mailed to the Complainant, the Respondent, the Fair Practices Officer, and the members of the Hearing

Committee. There can be no appeal from this decision.

C. Alternative to formal hearing; finality of decision

Instead of opting for a hearing, either the Complainant or the Respondent can appeal the decision of the Fair Practices Officer by filing a written statement of appeal with the President of the University within fifteen (15) days of the decision, setting forth the reasons for the appeal.

Alternatively, if no appeal from the decision of the Fair Practices Officer is taken, the decision will be referred to the President for final action. The President will have full discretion to address the issues of the decision or appeal as he or she sees fit. The President shall promptly issue a written decision and shall convey it to the Complainant, the Respondent, and the Fair Practices Officer. This shall be the final decision on the matter.

D. Other Options

1. While there is no further appeal from the President's decision provided under this Policy, regular employees and tenured and tenure-track faculty may have additional rights to challenge the sanctions of suspension and termination pursuant to University policy or State law. Further information on these rights can be obtained from the Office of Human Resources or the Provost.

2. Employees, but not students, may choose to pursue a formal complaint of discriminatory harassment under the State-wide anti-discrimination policy applicable to all regular State employees. If this choice is made, it is an alternative to the use of the University's process for handling harassment complaints and not an additional avenue of complaint.

To begin the State-wide complaint mechanism, an employee must file a written complaint with the head of the State unit, in this case the President of the University, alleging that discrimination has occurred. The complaint will be investigated by the Fair Practices Officer, and

he or she will recommend a decision to the President. Within thirty (30) days of the complaint being filed, the President will issue a written decision. There is no hearing allowed in the State-wide process. This decision can be appealed to the Secretary of the Department of Budget and Management. Further explanation of the use of this process can be provided by the Fair Practices Officer.

3. Depending on the nature of the complaint, there may be other remedies available through federal or State government agencies, such as a complaint to the Equal Employment Opportunity Commission (EEOC). Information about such remedies can be obtained from the Fair Practices Officer.

All time limitations contained within this Policy may be extended for good cause.

Sexual Harassment Policy and Procedures
Approved by Dr. Janet Dudley-Eshbach, President
April 11, 2001
Updated: December 22, 2008

SU Policy and Procedures on Prohibiting Sexual and Other Discriminatory Harassment conform to the following policies of the University System of Maryland Board of Regents:

BOR VI-1.20 Policy on Sexual Harassment
(Approved by the Board of Regents, June 5, 1992)

BOR VI-1.05 Policy of Non-Discrimination on the Basis of Sexual Orientation
(Approved by the Board of Regents, July 11, 1997)