UNIVERSITY OF SOUTH ALABAMA

FACULTY SEXUAL HARASSMENT POLICY

I. Sexual Harassment Statement

The University of South Alabama is committed to an environment in which students, faculty, staff and guests are free from sexual harassment. Sexual harassment threatens the legitimate expectations of all members of the campus community that academic achievement or employment progress is determined by classroom and job performance. Particularly unacceptable in a university setting, sexual harassment seriously undermines the atmosphere of trust essential to the academic enterprise.

Sexual harassment is illegal and violates Title VII of the Civil Rights Act of 1964, and Title IX of the Educational Amendment of 1972, as well as the University=s Nondiscrimination Policy. All members of the University community (including faculty, staff and students) must understand that sexual harassment will not be tolerated, and that they are required to abide by the following policy. Persons who engage in sexual harassment are subject to discipline up to and including termination.

II. Definition of Sexual Harassment

A. General Definition
For the purposes of University policy, sexual harassment includes, but is not limited to, verbal or non-verbal conduct with an inappropriate focus on gender or sexual history, individual characteristics or individual preferences that is intimidating, demeaning, hostile or offensive; unwelcome verbal or physical advances; attempts to subject a person to unwanted sexual attention or to coerce a person into sexual relations; and/or retaliation for refusal to comply with sexual demands.

Sexual harassment is further defined as unwelcome 1) sexual advances or 2) requests for sexual favors, or 3) other behavior of a sexual nature where:

Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual=s employment, academic standing, or participation in a University sponsored program or activity; and/or if such conduct has the purpose or effect of unreasonably interfering with an individual=s work or educational performance or of creating an intimidating, hostile or offensive environment for work or learning, or

Submission to or rejection of such conduct by an individual is or may be used as the basis for an academic, employment or other University decision.
affecting that individual, or

Such conduct unreasonably interferes with an individual’s academic and/or work performance, participation in University sponsored programs or activities or it creates an intimidating, hostile or offensive working, educational or residential environment provided by the University.

B. Evaluative Factors for Sexual Harassment Allegations
Conduct alleged to be sexual harassment will be evaluated by considering the totality of the particular circumstances, including the nature, frequency, intensity, location and duration of the questioned behavior. Unwelcome conduct of a sexual nature can form the basis of a sexual harassment claim if a reasonable person, similarly situated, would consider it so unreasonable, severe or pervasive as to interfere with academic, educational or employment performance or participation in a University program or activity or residential environment.

C. Persons Who Can be Victims of Sexual Harassment.
Sexual harassment can occur when one person has power or authority over another; however, it may also occur between individuals of equal status or rank within the University.

D. Academic Freedom, the First Amendment and Sexual Harassment
In cases of alleged sexual harassment, the protections of the First Amendment must be considered if issues of speech or artistic expression are involved. Free speech rights apply in the classroom and in all other educational programs and activities of public institutions, and First Amendment rights apply to the speech of students and teachers. Speech or conduct of a sexual or hostile nature which occurs in the context of educational instruction may exceed the protections of academic freedom and constitute prohibited sexual harassment if it meets the definition of sexual harassment noted above and (1) is reasonably regarded as non-professorial speech (i.e. advances a personal interest of the faculty member as opposed to furthering the learning process or legitimate objective of the course), or (2) lacks accepted pedagogical purpose or is not germane to the academic subject matter.

III. General Policy Guidelines

A. Persons Covered by Policy
All faculty members of the University are required to act in accordance with this policy. For the purposes of this policy, a faculty member shall include all full or part-time University personnel who teach or carry out research, including graduate teaching assistants and research assistants and administrators with faculty status. Graduate teaching assistants and research assistants are considered both faculty and students for the purposes of this sexual harassment policy. Graduate teaching assistants and research assistants may file a complaint as a student or have a complaint filed against them as faculty pursuant to this
B. Compliance Officers
Designated Compliance Officers (CO=s) in the offices of the Senior Vice President for Academic Affairs and Vice President for Medical Affairs are responsible for administering these guidelines and procedures.

C. Confidentiality Provisions
The University will do everything consistent with enforcement of this policy and with the law to protect the privacy of the individuals involved and to ensure that the complainant and the accused are treated fairly. Information about individual complaints and their disposition is considered confidential and will be shared only as determined to be appropriate in the University=s discretion.

D. Assurance Against Retaliation
This policy seeks to encourage students, faculty and other employees to express freely, responsibly and in an orderly way, opinions and feelings about any problem or complaint of sexual harassment. Retaliation against persons who report or provide information about sexual harassment or behavior that might constitute sexual harassment is strictly prohibited. Any act of reprisal, including internal interference, coercion and restraint, by a University employee or by one acting on behalf of the University, violates this policy and will result in appropriate disciplinary action. The University Senior Vice President for Academic Affairs and Vice President for Medical Affairs and/or his/her designee are authorized to take all necessary steps to ensure persons acting in good faith are not subject to sexual harassment.

IV. Sexual Harassment Complaint Reporting Requirement

A. Who May File a Complaint
Any person who believes he or she has been subjected to sexual harassment by a member of the faculty of the University may file a sexual harassment complaint pursuant to this policy.

B. Initiation of a Sexual Harassment Complaint
A complaint accusing a faculty member of sexual harassment, as defined in these guidelines, is initiated by submitting a written signed statement to the office of the Senior Vice President for Academic Affairs or the Vice President for Medical Affairs, as appropriate.

C. Details to be Included in the Complaint.
The complaint must include:
   (1) the name of the complainant,
   (2) the name of the accused,
   (3) the details of the alleged sexual harassment,
the names of any persons believed by the complainant to have knowledge
of the alleged harassment,
any other information the complainant believes pertinent to the alleged
sexual harassment, and
whether the complainant seeks resolution of the complaint through the
formal or informal processes described in this policy.

D. Standard of Proof Required
The complainant has the burden of providing evidence of the alleged sexual harassment,
and the complainant has the burden of proving that it is more likely than not that the
alleged harassment occurred.

E. Failure to Report Complaint in Good Faith
It is a violation of University policy for any member of the campus community to make
an intentionally false accusation of sexual harassment.

V. Investigation and Resolution of Sexual Harassment Complaints

A. Informal Resolution Process
   1. General Information
Many sexual harassment complaints can be resolved through an informal process. The
purpose of the informal procedure is to provide assistance and guidance to both the
complainant and the accused in the functioning of the University’s sexual harassment
procedures. An informal resolution process does not involve the appointment of an
investigator and the Sexual Harassment Resolution Committee, nor does it provide for
any rights of appeal.

Whether to proceed with the complaint through an informal process or through the formal
process is at the sole option of the complainant. If the complainant elects to seek
resolution through an informal process, the complainant may attempt such resolution
through either direct contact with the accused or with the assistance of a facilitator. At
any time during an informal resolution process, the complainant may change his/her
request for disposition of the complaint from the informal to formal process; provided,
however, that the complainant notifies the Compliance Officer, or his/her designee, of
that decision in writing.

   2. Initial Meeting with Faculty Compliance Officer
Generally, within fifteen (15) calendar days after receiving a complaint, the Compliance
Officer or a designee will meet with the complainant to discuss the complainant’s
concerns and clarify the University’s policy and internal complaint resolution
procedures. At that time, the complainant may request the appointment of a facilitator to
aid in resolution of
the complaint.
3. Resolution of an Informal Process
A complaint is deemed resolved when the complainant indicates to the Compliance Officer that the complainant believes the matter has been resolved. If the complainant does not advise the Compliance Officer of the resolution within thirty (30) calendar days after the initial meeting between the complainant and the Compliance Officer, the University will presume the complainant has elected to dismiss the complaint. Any informal resolution reached by the parties must be in writing and acknowledged by the parties. The statement of resolution will be retained in the office of the CO. The Senior Vice President of Academic Affairs/Vice President for Medical Affairs and Dean of the appropriate College will be notified of the resolution by the Compliance Officer.

B. Formal Resolution Process
1. Investigation of Formal Complaints
   a. General Information
      All written complaints reported to the Compliance Officer shall be resolved through the formal process unless the complainant expressly elects to pursue the allegations in an informal resolution process. The Compliance Officer will be responsible for conducting an investigation of all complaints and may designate other individuals to assist in that process.
   b. Initial Meeting with Compliance Officer
      Generally, within fifteen (15) calendar days after receiving a request for a formal resolution process, the Compliance Officer or a designee will meet with the complainant to discuss the complainant=s concerns and clarify the University=s policy and internal complaint resolution procedures. During this meeting the complainant may elect to change the style of resolution from formal to informal by so indicating in writing. If the complainant elects to change the resolution style to informal, resolution will be sought through the informal process outlined in this Sexual Harassment Policy.
   c. Accused=s Notification of Complaint by Compliance Officer
      Generally, within five (5) calendar days after meeting with the complainant, the investigator will meet with the accused to discuss the complainant=s concerns and clarify the University=s policy and internal complaint resolution procedures. The accused will have the opportunity to review the complainant=s written statement before responding to the charges contained therein. The accused has the right to respond via a formal statement to the investigator within ten (10) calendar days of his/her meeting with the investigator. If the accused does not provide a written response, his/her failure to do so will be considered an admission of the complainant=s charges, and the complaint will be immediately forwarded to the Sexual Harassment Resolution Committee for a recommendation regarding sanctions.
   d. Identification of Relevant Witness and/or Information
      Both the complainant and the accused have the right to provide any information and/or identify any persons who may have information relevant to the complaint. The

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investigator will interview witnesses and collect written statements from all witnesses deemed relevant by the Compliance Officer.

e. **Scope of Investigation**
The scope of the investigation shall be within the discretion of the investigator. An investigation report shall be completed within thirty (30) calendar days of the complainant=s initial meeting with the investigator (or as of the date the complaint resolution was amended from informal to formal process, if applicable) unless extraordinary extenuating circumstances exist as defined and determined by the Compliance Officer.

f. **Additional Information**
Upon completion of the investigation, the information gathered will be forwarded to the Sexual Harassment Resolution Committee unless the complainant elects to proceed with resolution through informal procedures.

Persons who have filed a complaint of sexual harassment, are accused of sexual harassment or are identified by any party, including the University, as possible witnesses to sexual harassment do not have the right to be represented by an attorney during any step or phase of the proceedings. Furthermore, at no time during the proceedings, including during any meetings and/or interviews, shall an attorney be present.

Persons involved in sexual harassment investigations are entitled to the due process rights provided by the State of Alabama for persons employed by and/or attending a state university. No further or other due process rights exist.

2. **Sexual Harassment Resolution Committee**
a. **Composition of Committee**
The Sexual Harassment Resolution Committee will be composed of three members: (1) a tenured faculty member; (2) a department chairman; and (3) the Vice President of Student Affairs. Members of this committee will be appointed by the University President and serve at the pleasure of the President. A Chair will be selected by the Committee. All members of the Committee will receive training in the processing of sexual harassment complaints.

b. **Review of Complaints by Sexual Harassment Resolution Committee**
The Sexual Harassment Resolution Committee will meet to review complaints of sexual harassment within fifteen (15) calendar days of receipt of the investigator=s completed investigation. The Sexual Harassment Resolution Committee is responsible for determining whether a preponderance of evidence suggests that the alleged sexual harassment occurred, and, if so, what the recommended sanction will be. The Sexual Harassment Resolution Committee will review the entire investigation of the case, as reported by the investigator, prior to making its decision. Furthermore, the Committee has the right to call the parties, any witnesses or the investigator before a
Committee meeting at any time during the Committee process if the Committee determines, in its sole discretion, that this would be beneficial to the Committee=s consideration of the complaint. No party to the case or any witness has a right to attend a Committee meeting. No person called before a Committee meeting may attend with counsel.

c. **Time Frame for Review by Sexual Harassment Resolution Committee**
The Sexual Harassment Resolution Committee must complete its review of the complaint and determine any recommended sanctions within thirty (30) calendar days of the Committee=s receipt of the completed investigation report, unless the Compliance Officer determines, in his/her sole discretion and upon a request from the Chair of the Committee, that additional time is needed by the Committee to fully perform this function.

d. **Possible findings by Sexual Harassment Resolution Committee**
The Compliance Committee may determine:

(1) that the alleged conduct did not occur and/or does not constitute sexual harassment. If so, the Chair of the Committee will notify, in writing, the Compliance Officer of the Committee=s determination within three (3) calendar days of that decision, or

(2) that the alleged conduct constituted sexual harassment. If so, the Committee Chair will notify, in writing, the Compliance Officer and the appropriate Vice President (Academic or Medical) of the Committee=s determination, including its recommended sanctions, within three (3) calendar days of that decision.

e. **Review by Senior Vice President for Academic Affairs and Vice President for Medical Affairs**
The Senior Vice President for Academic Affairs or the Vice President for Medical Affairs will review the Committee=s determination and make a decision regarding sanctions within five (5) calendar days of receiving the Committee=s recommendation. The accused will be notified of the Senior Vice President for Academic Affairs=s or Vice President for Medical Affairs=s decision regarding sanctions within three (3) calendar days of that decision.

f. **Complainant=s and Accused=s Notification Rights**
The complainant is entitled to notification that his or her complaint is being investigated and to notification by the Compliance Officer when the complaint has been fully investigated. The complainant is not entitled to notification of the outcome of the investigation or to notification of any disciplinary sanctions or subsequent actions by the University or the Sexual Harassment Resolution Committee. The accused will also be notified when the investigation is completed.

g. **Prohibition of Review of Findings, Investigation, Determinations and/or Sanctions**
No party to the investigation, including any witness to the alleged harassment, is entitled to review its findings, a summary of the findings and/or any determination reached pursuant to the investigation and/or findings, except that the complainant and accused are entitled to review each other’s written statements, and those of witnesses. The Compliance Officer may elect to redact the names of any witnesses prior to review of the witness’s statement.

3. Appeals of Sexual Harassment Resolution Committee Decisions
Faculty employees who have been sanctioned pursuant to the University’s Sexual Harassment Policy shall only have the right to appeal the sanction imposed to the Senior Vice President of Academic Affairs or to the Vice President for Medical Affairs, as applicable. The appeal must be filed within five (5) calendar days of notification of the sanction. However, there is no right to appeal the substantive finding of a violation of the sexual harassment policy. Within ten (10) calendar days of receiving the appeal, the Senior Vice President of Academic Affairs or the Vice President of Medical Affairs, as applicable, will issue a final decision regarding the appeal. However the Senior Vice President of Academic Affairs or the Vice President of Medical Affairs shall have the right to extend the ten (10) calendar days if he/she deems such an extension necessary. The faculty member will be notified of any such extension.

4. Sanctions Permissible Pursuant to this Policy
The sanctions imposed will depend on all the facts and circumstances discovered during the investigation and/or informal resolution process. Disciplinary action pursuant to University procedures may include, but is not limited to:

$ a requirement not to repeat or continue the harassing conduct,

$ certification of completion of a sexual harassment education program,

$ a reprimand,

$ reassignment of duties,

$ denial of pay increase,

$ suspension with or without pay or

$ termination of employment.

C. University Investigative Authority
Nothing in this policy shall be interpreted as preventing the University from investigating any conduct which the University considers potentially harmful to the University community, regardless of when discovered by the University. Further proceedings shall respect the due process rights of anyone accused and any disciplinary action shall be
subject to appeal following the appropriate University procedures. However, nothing in this policy shall be interpreted as requiring the University to investigate sexual harassment which is not reported pursuant to this policy.

D. Obligation to Participate in Investigations
All University students, faculty, personnel and others involved in a sexual harassment investigation, whether as parties or witnesses, have an obligation to participate in the investigation of sexual harassment complaints to the fullest extent requested by the University. Failure to participate shall be grounds for disciplinary action up to and including termination.

VI. Sexual Harassment Complaints within Official Records

All records pertaining to sexual harassment complaints, appeals and decisions regarding appeals will be maintained in the Office of the Senior Vice President for Academic Affairs or Vice President for Medical Affairs, as applicable. The Senior Vice President for Academic Affairs/Vice President for Medical Affairs will notify the appropriate supervisor of the findings and sanctions. In all cases where a faculty member is determined to have engaged in sexual harassment or where, in the discretion of the Senior Vice President for Academic Affairs or Vice President for Medical Affairs, an informal resolution regarding a sexual harassment complaint needs to be noted, a letter will be placed in the faculty member=s personnel file indicating that the Senior Vice President for Academic Affairs=s or the Vice President for Medical Affairs=s office maintains records on sexual harassment by the faculty member.

VII. Procedures and Policies Affecting Consensual Amorous Relationships

The appearance of a compromising conflict of interest or of coercion, favoritism or bias in educational or academic evaluation is prejudicial to the interests of the University of South Alabama. Amorous relationships between faculty members and students with whom they also have an academic evaluative role create such an appearance, even where the relationship is genuinely consensual. Such relationships are particularly susceptible to exploitation. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in an academic or evaluative role, make voluntary consent by the student suspect. In light of the significant power differential that exists, or is believed to exist, between faculty and students, even when both parties initially have consented, the development of such a relationship renders both the faculty member and institution vulnerable to possible later allegations of sexual harassment.

Therefore, faculty members are prohibited from participating in amorous relationships with students enrolled in their classes or with students whom they otherwise evaluate, grade or supervise. Similarly, faculty members have an obligation to avoid situations which may require them to evaluate, grade or supervise students with whom they have or have had amorous relationships. If such a situation arises, a faculty member must immediately report the situation to his/her immediate supervisor for advice and counsel.
and must abstain from any evaluation, grading or supervision of students with whom he/she has or has had an amorous relationship.

Conducting amorous relationships in violation of this policy may lead to a presumption of sexual harassment and can lead to sanctions including termination.

For the purpose of this policy, evaluative situations may include, but are not limited to, supervising instruction; evaluating academic performance; or serving on committees for awards, prizes or thesis supervision.