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SR-92-93-(113)259(FS)

Marshall University

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**FACULTY SENATE  
RECOMMENDATION**

**SR-92-93-(113)259(FS)**

That the attached "SEXUAL HARASSMENT COMPLAINT PROCEDURES" be approved.

**FACULTY SENATE PRESIDENT:**

APPROVED BY SENATE: Robert D. Sawry DATE: 4-29-93

DISAPPROVED BY SENATE: \_\_\_\_\_ DATE: \_\_\_\_\_

**UNIVERSITY PRESIDENT:**

APPROVED:  DATE: 4-30-93

DISAPPROVED: \_\_\_\_\_ DATE: \_\_\_\_\_

**COMMENTS:**

Amended by the Faculty Senate.

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# SEXUAL HARASSMENT COMPLAINT PROCEDURES

## SECTION 1. GENERAL

### 1.1 PURPOSE

These procedures are to be used in the implementation of the Sexual Harassment Policy of the University.

### 1.2 AUTHORITY

Policy Bulletin No. 9 issued by the West Virginia Board of Regents on May 17, 1987.

## SECTION 2. GRIEVANCE PROCEDURES

The complainant may choose to use the informal procedure or the formal procedure described below; or s/he may use the informal procedure first and then, if not satisfied, the formal procedure.

### 2.1 INFORMAL PROCEDURE

2.1.1 Informal complaints need not be in writing but must be filed within one hundred and sixty (160) working days of the alleged incident. They may be resolved in consultation with an agent of the University, as described below:

2.1.1.1 Any applicant to an educational program, or any person seeking employment with the University, who feels that s/he has been sexually harassed should contact the Office of Affirmative Action for counseling and other appropriate actions;

2.1.1.2 Any employee who feels that s/he has been sexually harassed should contact his/her immediate supervisor, or a member of the Equal Opportunity Grievance Panel, or the Office of Affirmative Action for counseling and other appropriate actions;

2.1.1.3 Any student who feels that s/he has been sexually harassed should contact the chairperson of her/his department, or the dean of his/her college, or a member of the Equal Opportunity Grievance Panel, or the Office of Affirmative Action for counseling and other appropriate actions;

2.1.1.4 Any other person who feels that s/he has been sexually harassed should contact the Office of Affirmative Action for counseling and other appropriate actions.

2.1.1.5 The agent of the University should attempt an informal resolution of the complaint, within thirty (30) working days.

2.1.1.6 If the complainant(s) wish(es) to remain anonymous, the agent of the University should counsel the complainant(s) and discuss with him/her/them ways to remedy the situation without confronting the alleged harasser. The agent of the University shall forward all records to the Office of Affirmative Action. The Office of Affirmative Action will inform the alleged harasser that a complaint has been filed and provide the alleged harasser with a copy of the complaint with all data that could be used to identify the complainant(s) removed. No file of informal complaints will be kept at any level.

2.1.1.7 If the complainant(s) choose(s) to reveal his/her/their identity, the agent of the University shall refer the matter to the Office of Affirmative Action for further action. An agent of the Office of Affirmative Action shall meet with any parties and attempt to arrive at a mutually satisfactory solution. Such solutions may include dropping the charges, signing a consent decree, or reaching a no-fault settlement agreement. If any party is not satisfied with the results of this process, he/she may request that the incident be reviewed as a formal complaint.

## 2.2 FORMAL PROCEDURE

The formal procedure is invoked by the filing of a written complaint with the Affirmative Action Officer. The complaint shall be filed upon forms available from the Office of Affirmative Action.

2.2.1 Formal complaints must be filed within one hundred and sixty (160) working days of the alleged incident. The time period for filing may be extended by the Affirmative Action Officer, for good cause.

2.2.2 Upon acceptance of a complaint, the Affirmative Action Officer shall select two (2) or more members of the Equal Opportunity Grievance Panel to constitute the Committee that will investigate the complaint.

2.2.3 Within five (5) working days of acceptance of the complaint, the Affirmative Action Officer will notify the alleged harasser of the allegations made by the complainant. In the notification letter, the Affirmative Action Officer will request the alleged harasser's response to the allegations; and provide him/her with the names of the members of Sexual Harassment Committee that will investigate the complaint. The Affirmative Action Officer will also provide the complainant with a copy of the notification letter. Within three (3) working days of said notification, either the complainant or the alleged harasser may request that any member of the Committee be excused for good cause.

2.2.4 The complaint shall be investigated within the sixty (60) working days following notification of the alleged harasser; in the event of extenuating circumstances, this period may be extended by the Affirmative Action Officer with authorization from the complainant.

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2.2.5 The complainant may withdraw his/her complaint at any time. No-Fault settlement may be offered and accepted by either parties, at any time, but the University reserves its right to continue its investigation.

2.2.6 During the course of the investigation, the Committee shall interview the parties, hear testimonies from some of the witnesses offered by the parties, and gather evidence from any other appropriate sources. The Committee shall conduct predetermination conferences with the complainant, the alleged harasser, and the Affirmative Action Officer.

2.2.7 Within the ten (10) working days following the predetermination conference with the Affirmative Action Officer, the Committee shall submit its report to the Affirmative Action Officer. The report should include the complaint, a summary of the relevant facts, an analysis of the evidence and a brief conclusion or determination.

2.2.8 Upon receipt of the report of the Sexual Harassment Committee, the Affirmative Action Officer will notify both parties of the determination of the Committee and invite them to a conciliation meeting.

2.2.9 Should the parties agree to conciliate, the Affirmative Action Officer will draft a Conciliation Agreement for signature of the parties; if any party does not agree to conciliate, the Affirmative Action Officer will ask the party to submit his/her reasons in writing, within three (3) working days.

2.2.10 Within the ten (10) working days following the invitation to conciliate, the Affirmative Action Officer shall submit the report of the Committee and his/her recommendations to the President through the Vice President for Multicultural Affairs. The Affirmative Action Officer shall inform both parties of his/her recommendations.

2.2.11 Within the ten (10) working days following notification of the recommendations of the Affirmative Action Officer, either party not satisfied with the recommendations may appeal to the President or his/her designee. The President may establish a committee to review the complaint and decide on the appeal. The decision of the President will be rendered within the twenty (20) working days following the appeal deadline. The decision of the President shall be the final decision of the University.

2.2.12 However, the complainant will have the right to file the same complaint with the appropriate local, state or federal agency; and the alleged harasser will have the right to appeal the decision of the President to the Board of Trustees.

### **SECTION 3. CONFIDENTIALITY**

3.1 All students and employees of the University will treat as confidential, to the extent permitted by law, the information that is disclosed to them in sexual harassment proceedings.

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3.2 This provision does not apply to disclosures by investigator(s) to charging party, alleged harasser, or witnesses when disclosure is deemed necessary for securing appropriate information.

3.3 The Affirmative Action Officer is authorized to provide the alleged harasser with a copy of the charges, and copies of all written statements submitted by the complainant; s/he is also authorized to provide the complainant with copies of all written statements submitted by the alleged harasser.

3.4 The Sexual Harassment Committee, and the Affirmative Action Officer are authorized to discuss their findings, conclusions, recommendations, and/or reports with the complainant and the respondent; only the President or his/her designee can authorize release of the above mentioned reports.

3.5 Upon written authorization of the President, or of his/her designee, records of sexual harassment cases may be made available for confidential review by persons involved in grievances arising out of the same incident.

3.6 Breach of confidentiality by the Affirmative Action Officer, by staff of the Office of Affirmative Action, by members of the Equal Opportunity Grievance Panel, or by any person entrusted with records of informal or formal sexual harassment complaints is subject to appropriate sanctions, as provided for in the Sexual Harassment Policy of the University.