



Sexual Harassment: He Said, She Said, They Said

Presented by:

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Program Objectives

- ◆ To increase understanding about MnSCU/MSU's 1B.1 Nondiscrimination Policy and 1B.1.1 Complaint Procedure
- ◆ Heighten awareness about sexual harassment and prohibited consensual relationships
- ◆ Provide techniques and guidelines for addressing harassment



Protection Against Sexual Harassment

Federal Law Protection:

- ❖ Title VII - Civil Rights Act of 1964
- ❖ Title IX – Educational Amendments of 1972

State Law Protection:

- ❖ Minnesota Human Rights Act

MnSCU/MSU:

- ❖ 1B.1 Nondiscrimination in Employment and Education Opportunity
- ❖ 1B.1.1 Report/Complaint of Discrimination/ Harassment Investigation and Resolution



1B.1 Policy Definition of Sexual Harassment

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

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education, evaluation of a student's academic performance, or term or condition of participation in student activities or in other events or activities sanctioned by the college or university; or
2. Submission to or rejection of such conduct by an individual is used as the basis of employment or academic decisions or other decisions about participation in student activities or other events or activities sanctioned by the college or university; or
3. Such conduct has the purpose or effect of threatening an individual's employment; interfering with an individual's work or academic performance; or creating an intimidating, hostile, or offensive work or educational environment.

Consensual Relationships

MnSCU/MSU 1B.1 Policy and 1B.1.1 Procedure prohibit consensual relationships between an employee --and a student or an employee-- over whom one exercises direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority or influence.

Could this apply to me now or in the future?



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Consensual Relationships

- Professors are not permitted to date a student in their class, whom they advise or otherwise have any authority over.
- Supervisors are not permitted to date an employee, including student employees, whom they supervise or otherwise have any authority over.

THERE IS NO SUCH THING AS A SECRET OFFICE OR CLASSROOM ROMANCE!



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Can Sexual Harassment Happen to You?

Sexual harassment can occur in a variety of relationships including:

- ◆ Faculty - student
- ◆ Supervisor - employee
- ◆ Student - student
- ◆ Staff - student
- ◆ employee - employee
- ◆ and other relationships with persons having business at, or visiting the educational or working environment.



What is Sexual Harassment?

Sexual harassment is a form of sex discrimination.

Harassers can be male or female. Individuals subjected to sexual harassment can be male or female. Males can sexually harass females or other males. Females can sexually harass males or other females.

Types of sexual harassment:

1. Quid Pro Quo
2. Hostile Environment Harassment



What is “Quid Pro Quo” Sexual Harassment?

Quid Pro Quo (“this for that”): Employment and academic decisions and conditions are based on whether an employee or student is willing to submit to unwelcomed sexual conduct. Occurs when an individual in a position of power pressures another individual to agree to their sexual demands.

Examples:

- ✓ If you don't, I will...
- ✓ Put up with it or I will...
- ✓ If you do, I will...



What is “Quid Pro Quo” Sexual Harassment?

What is meant by employment and academic decisions and conditions?

- ❖ Hiring...Firing...Tenure
- ❖ Promotion...Raises
- ❖ Better hours or job responsibilities
- ❖ Better office...better performance review
- ❖ Better grade...better internship
- ❖ Admission to or dismissal from a program
- ❖ Membership in honor societies
- ❖ Not reporting a disciplinary or academic matter
- ❖ Better reference or recommendation
- ❖ Or any other benefit



What is “Quid Pro Quo” Sexual Harassment?

What is meant by unwelcomed sexual conduct?

Conduct that is not solicited or invited and the Complainant must regard the conduct as undesirable or offensive.

Can one incident be a violation of the 1B.1 Policy?

A single sexual advance may constitute “quid pro quo” harassment if it is linked to the granting or denial of employment or employment benefits.



What is “Hostile Environment” Sexual Harassment?

Hostile work environment harassment is where speech or conduct is “severe or pervasive” enough to create a hostile or abusive work environment.

What is “severe and pervasive”?

Generally, the more frequent the conduct, the less severe it needs to be to create a sexual harassment hostile environment. Conversely, the less frequent the conduct, the more severe it must be in order to create a hostile environment.

Can one incident be a violation of the 1B.1 Policy?

In most cases, a hostile environment claim requires a showing of a pattern of offensive conduct. Unlike “quid pro quo” harassment, unless the conduct is quite severe, a single incident or isolated incidents of offensive sexual conduct or remarks generally do not create a “hostile environment.” However, one incident of unwelcome, intentional touching of complainant’s intimate body area(s) is sufficiently offensive to alter the condition of his/her working environment and can constitute a “hostile environment.”



What is “Hostile Environment” Sexual Harassment?

The standard used by civil rights agencies and courts in determining whether a hostile work environment exists is whether a reasonable person, in the same or similar circumstances, would find the conduct offensive.

- ❖ **Factors to be considered:**
 - ✓ How offensive is the conduct?
 - ✓ How often did the conduct occur?
 - ✓ Is the conduct physically threatening?
 - ✓ Is the alleged harasser in a position of power over the student or employee?
- ❖ **Hostile environment sexual harassment can include “same sex” sexual harassment.**
- ❖ **Conduct can include:**
 - ✓ Verbal comments
 - ✓ Visual items
 - ✓ Physical acts directed at another



Hostile Environment Claims

- ◆ “North Country”: 2005 movie based on the true story of female miners who faced a wide range of abusive behaviors from male co-workers and supervisors at an Eveleth, Minnesota taconite mine. Jensen v. Eveleth Mines. Mid-70’s to 1998. Mary Stumo/Eveleth Attorney: “Nuts and Sluts” and “scorched earth” defenses. Eveleth Mines paid out more than \$15 million in legal fees and settlements.
- ◆ “Sexual favoritism claims”: Employee who isn’t in a personal relationship with their supervisor alleges receiving unfavorable treatment in comparison to an employee who is in a personal relationship with their supervisor.

Examples: Sexually Harassing Behavior

REGARDLESS OF HOW IT'S COMMUNICATED:
HARASSMENT IS HARASSMENT!!

- < "Rating" another individual's body on sex appeal
- < Leaving unwelcome, sexually explicit messages on voice mail or via email or text messages. This could include "sexting."
- < Using language that is offensive or implies inferiority of another individual based on their sex, such as "slut" "bitch" "babe" "stud" or using sexually explicit profanity
- < Telling off-color jokes or making teasing comments of a sexual nature
- < Sexually explicit pictures, cartoons, t-shirts, videos, screensavers and/or posters that are not related to someone's educational course, study content, syllabus or not related to academic freedom
- < Discussion, jokes, lewd remarks or whistles, references to sexual matters. *Sex is not an appropriate topic for the work place.*



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Sexual Harassment Myths and Facts

Myth or Fact? Most people enjoy sexual attention at work and school. Teasing and flirting make work and school fun.

One person's teasing may be another person's sexual harassment. Some people may be angry or embarrassed. Comments or actions that constitute harassment may be intended as humorous or to express familiarity. This doesn't excuse the behavior or the need to address it.

Myth or Fact? If the person would just say "no", the sexual harassment would stop.

"No" sometimes works but some individuals may interpret "no" as a coy way of saying "yes." In some situations, employees or students may be afraid to speak up.

Sexual Harassment Myths and Facts

Myth or Fact? Harassment will stop if a person just ignores it.

Harassers often believe that if a person ignores inappropriate/harassing behavior, that's proof that the behavior is welcome. Many times, the behavior escalates and turns ugly...or gets worse.

Myth or Fact? If people watched the way they dressed, there would be less of a problem with sexual harassment.

A particular way of dressing is not permission to touch or otherwise harass. Sexual harassment has more to do with **power** than with how one dresses.



Sexual Harassment Myths and Facts

Myth or Fact? Sexual harassment is about sexual attractiveness or sexual desire.

A recent study by University of Minnesota sociologists found that female managers are substantially more likely to be targets of sexual harassment than women who have no supervisory duties. The study's findings indicate sexual harassment is about **control rather than sexual desire**. August 17, 2009 Star Tribune article by David Phelps.



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Is My Behavior “Reasonable” and Appropriate?

- ◆ Court cases have determined that such behaviors will be reviewed using the “reasonable person” standard.
- ◆ Women and men often have different perspectives about meanings of actions or statements.
- ◆ Assumptions made in good faith can actually be untrue.
- ◆ Exercise restraint because behaviors may be “unwelcome.”
- ◆ If you have any doubts, simply do not do it.

Not a Defense

An individual's cultural background and/or upbringing are not valid defenses to illegal behavior. Nor is their career choice.

Discrimination and harassment are not within the protections of academic freedom or free speech.

"I didn't mean anything by it..." is not a defense.

"It was just a joke..." is not a defense.

"You should be flattered..." is not a defense.



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Think Before Acting



- Filter thoughts before speaking.
- Avoid suggestive comments about a person's clothes or body.
- Refrain from sexual jokes and innuendoes.
- Consider situations from the other person's perspective.
- Don't assume that everyone shares the same sense of humor, attitudes and comfort levels.



Before Acting...Ask yourself



- ◆ Does this behavior offend or hurt others?
- ◆ Would I appreciate reading about my behavior or comments in the Reporter, the Mankato Free Press or the Chronicle of Higher Education?
- ◆ Would I want my spouse, children, or significant other to be treated in this manner?

The Flip Side: Am I Being Targeted?

Could I be the target of someone who will try anything to get ahead?

- Males dating female supervisor
- Females dating male supervisors
- The List***
- Single employees dating married supervisors
- What happens when the “perfect relationship” ends badly?



Potential Effects

- ◆ Stress
- ◆ Humiliation
- ◆ Increased Absenteeism
- ◆ Blamed by peers
- ◆ Labeled a troublemaker
- ◆ Anxiety
- ◆ Low workplace morale



What Can You Do If You Believe You Are Being Sexually Harassed?

- Sexual harassment can escalate into sexual assault. If you feel physically threatened, remove yourself from the situation and seek help immediately from University Security at 389-2111, or dial 911 for the Mankato Police Department.
- If the situation is not physically threatening, and you feel comfortable talking to the individual, tell them you're offended by the comment or behavior and ask them to stop.
- If you're not comfortable talking directly to the individual, you can identify a third party whom you and the other individual mutually respect and ask for their assistance in helping the two of you talk through the behavior or conduct and why you found it offensive.
- Document incidents of discrimination and harassment immediately after they occur – who, when, where, what was said or done, and the names of any witnesses. Keep any documentation (emails, text messages, voice messages, letters, cards, presents, etc.) Discrimination and/or harassment complaints should be submitted to the Office of Affirmative Action to determine if the complaint falls under the 1B.1 Nondiscrimination in Employment and Education Opportunity Policy or for referral to another University office.



How Do I Submit a 1B.1.1 Complaint?

- ◆ Every person in our campus community has a right to submit a complaint of sexual harassment. All 1B.1 complaints are submitted to the Office of Affirmative Action.
- ◆ All complaints are taken in confidence, but confidentiality cannot be guaranteed throughout the investigative process.
- ◆ All complainants and respondents are notified in writing of the complaint being filed. All respondents will have the opportunity to respond to the allegations against them.
- ◆ All parties to the complaint will be kept informed during the investigation.
- ◆ All parties will be notified in writing of the findings of the investigation; however, the complainant will not be notified of the disciplinary action taken, if any, against the respondent.
- ◆ Complaints may be resolved through an informal and/or formal investigatory process.



Reporting Incidents

1B.1.1 Procedure.

Part 4. Reporting incidents of discrimination/harassment

Subpart A. Reporting an incident.

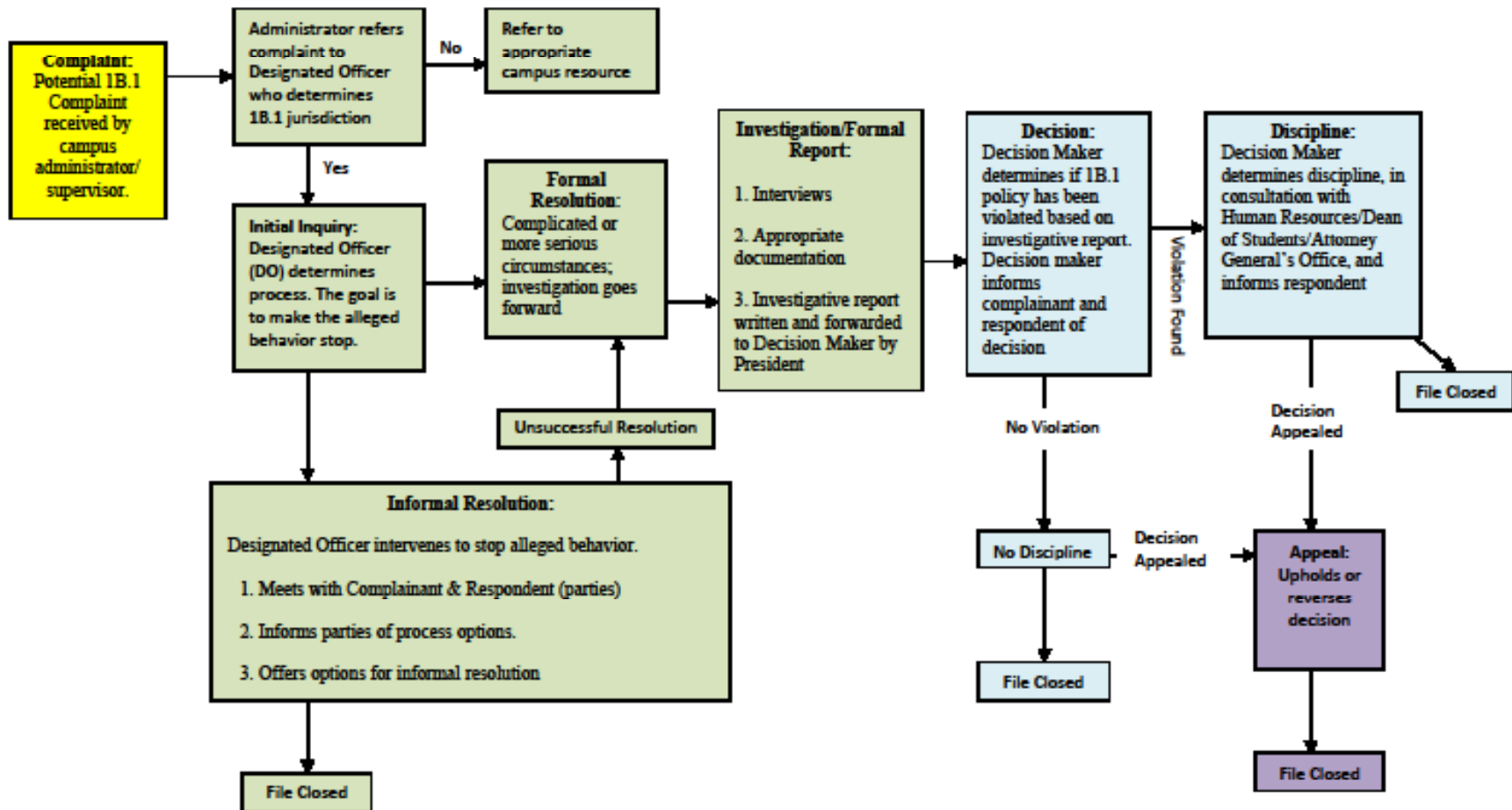
...Any student, faculty member or employee who knows of, receives information about or receives a complaint of discrimination/harassment is *strongly encouraged* to report the information or complaint to the designated officer of the Office of the Chancellor, college, or university.

Subpart B. Duty to report. Administrators and supervisors *shall* refer allegations of conduct that they reasonably believe may constitute discrimination or harassment under Board Policy 1B.1 to the designated officer, or in consultation with the designated officer may inquire into and resolve such matters.

= Administrator
 = Decision Maker

= Designated Officer (Investigator)
 = President/Designee

MnSCU/MSU 1B.1 Discrimination/Harassment Complaint Process



How Does the Investigation Process Work for Sexual Harassment Complaints?

- ◆ Why do complainants submit complaints: Most honestly believe they've been sexually harassed. However, some submit complaints to force the alleged harasser into providing an employment or academic benefit they would not normally be entitled to or to contest a bad grade.
- ◆ Investigator is a neutral, fact-finder...NOT an advocate
- ◆ The investigator is NOT the decisionmaker
- ◆ **He said, she said, they said** – analysis of and weighing testimony
- ◆ False statements/complaints are prohibited under the 1B.1.1 Procedure
- ◆ Retaliation is prohibited and could result in additional complaint(s)

Confidentiality

- ◆ All complaints are taken in confidence, but confidentiality cannot be guaranteed throughout the investigative process
- ◆ Tennessen Warning for employees and students
- ◆ Confidentiality reduces retaliation claims
- ◆ Breach of confidentiality can seriously harm an ongoing investigation
- ◆ Investigation report strives to maintain confidentiality of witnesses through non-identification and redaction efforts



Potential Penalties for Violations of the 1B.1 Nondiscrimination Policy

- ◆ Discipline, which can include termination
- ◆ Loss of Time
- ◆ Potential loss of money (legal fees)
- ◆ Embarrassment
- ◆ Ruined career and reputation (national media stories)
- ◆ Discrimination and sexual harassment complaints can sometimes end up in a court room, a police officer's report, the newspaper, or in an attorney's office.



Two large, overlapping, yellow curved shapes that resemble stylized flames or abstract waves, positioned behind the main title.

Workplace Scenarios

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M A N K A T O



Contact Information

Office Location:

112 Armstrong Hall

507.389.2986

Hours: 7:30 a.m. – 4:30 p.m.

www.mnsu.edu/affact