

POLICY AND PROCEDURE: **402**

EFFECTIVE DATE: **July 1, 1995**

REVISION DATE:

SUBJECT: **Sexual Harassment/ Complaint Process**

APPROVING AUTHORITY: **Carl B. Vickers, Director**

**POLICY:** It is the policy of the Cardinal Criminal Justice Academy that sexual harassment of its staff members, instructional personnel or students in any form is prohibited and that all of these persons shall be treated with respect. Staff, instructional personnel and students have the right under Section 703 of Title VII of the Federal Civil Rights Act of 1964 to work in an environment that is free of conduct that can be considered sexually harassing or abusive. Any staff member, instructional personnel or student who engages in, or who perpetuates or condones, sexual harassment shall be subject to disciplinary action.

**PURPOSE:** The purpose of this policy is to define and forbid certain conduct that is sexual harassment, to prohibit the condoning or perpetuating of such conduct and to provide a means for reporting and resolving complaints of action or behavior condoning sexual harassment and complaints that cannot be resolved within the organizational structure. Complaints of sexual harassment are to be made to the academy director or the chairman of the academy Governing Council. Complaints may also be made to the Equal Employment Opportunity Commission (EEOC).

**PROCEDURE:**

**I. Definition**

**A. Sexual Harassment:** Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such advances or requests is used as a basis for employment decisions; or
3. Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

- B. Sexual Discrimination: The EEOC has determined that sexual harassment is a form of sexual discrimination. The academy's policy on sexual discrimination is contained in the Equal Employment Opportunity statement in academy Policy #401.
- C. Staff member: An individual employed by the academy on a part-time, full-time, permanent, grant, term or temporary basis is considered to be an employee for the purpose of this policy.
- D. Instructional personnel: Those persons assigned to the academy by one of the participating jurisdictions as an instructor, role player or supervisory staff person on a non-permanent basis.
- E. Student: A student assigned to the academy to attend a training program conducted by the Cardinal Criminal Justice Academy.

## II. Prohibited Conduct

- A. Sexual harassment is a form of employee misconduct which undermines the integrity of the employment relationship. Sexual harassment does not refer to occasional non-sexual compliments. It refers to behavior of a sexual nature which is not welcome, which is personally offensive, which erodes morale and the respect between employees and/or which impairs employees' work effectiveness.
- B. The following types of conduct are examples of sexual harassment and are prohibited. These examples do not represent all the ways in which sexual harassment may occur and are not intended to limit the definition of sexual harassment in Section I.
  - 1. Explicit or implicit promises of career advancement or preferential treatment in return for sexual favors. Such promises or preferential treatment may include, but are not limited to hiring, promotion, training opportunities, acceptance of a lower standard of performance, providing higher performance evaluations, and lax timekeeping.
  - 2. Explicit or implicit threats that staff, instructional personnel and students will be adversely affected if sexual demands are rejected. Such threats include, but are not limited to lower evaluations, failing grades, denial of promotions, punitive transfers, terminations, and altered or increased work assignments.
  - 3. Verbal comments and gestures of a sexual nature. This includes any type of sexually suggestive remarks pictures, "jokes: and "catcalls".
  - 4. Repeated and unsolicited touching of any kind. This includes the touching, patting or pinching of another person and the repeated brushing

against another person's body.

### III. Roles and Responsibilities

- A. Staff members, instructional personnel and students have a responsibility to conduct themselves in a manner which will ensure proper performance of academy job responsibilities and maintenance of public confidence.
- B. Complainants have a responsibility to complain about sexual harassment within ten (10) working days and pursue their complaint to a higher authority if not satisfied with the response of anyone in their chain of command.
- C. Staff members shall immediately notify the academy director of any reports of sexual harassment. All staff members have a responsibility to act promptly and affirmatively when they observe behavior that violates this regulation, and/or when they receive complaints of sexual harassment.

### IV. Complaint Process

- A. It is the responsibility of any staff member, instructor, or student who experiences sexual harassment to bring the harassment to the attention of the academy within (10) ten working days after the incident(s) occurs to be considered.
- B. Complaints may be made orally or in writing to an immediate supervisor, the director, or the Governing Council chairman.
- C. Individual preference may lead some persons who experience sexually harassing conduct to seek to resolve the problem by dealing directly with the offending individual. However, when such conduct is not reported to the academy, the academy is severely limited in achieving a workplace free of sexual harassment.
- D. Staff members, instructors, or students are expressly not required to deal directly with an offending individual in seeking resolution of a complaint of sexual harassment.
- E. Such complaints, will to the extent possible, be afforded confidentiality and privacy and all information and documents pertaining to a claim shall be confidential.

- F. Within three (3) working days of receipt of an oral or written complaint, the director shall meet separately with the complainant and the alleged harasser, and then together if appropriate. If necessary, the director shall also meet with all other persons having any information on the matter. The director shall determine all facts relevant to the alleged misconduct and any relief sought by the complainant. The director shall give his oral response to the complainant by the conclusion of those three (3) working days. If additional time is needed, the employee shall be so advised and the response given within three working days thereafter.
- G. If a satisfactory solution is not reached by this process, the employee, instructor or student may put the complaint in writing to the Chairman of the Governing Council. Employees may also file a formal grievance and then follow all steps and deadlines contained in the academy grievance procedure.
- H. If the complainant is alleging that the director is the person conducting or condoning the harassing behavior, he or she may file a complaint directly with the Chairman of the Governing Council.
- I. In addition to any grievance pursued through the academy's grievance procedure, complainants may file a complaint of sexual harassment with the EEOC. The time limits applicable to complaints filed with this Federal agency are unaffected by the filing of a grievance. It is the complainant's responsibility to adhere to the filing requirements of this agency.

V. Nature and Scope of Investigation

- A. Investigation of sexual harassment complaints shall be made within the time limits prescribed by this policy or the academy grievance procedure and shall be thorough. Interviews of all relevant witnesses shall be conducted, and summaries of witnesses' statements and the investigator's findings and recommendations will be in writing.
- B. Any investigation of a complaint of sexual harassment shall be limited to an inquiry of the truth or falsity of such complaint.
- C. Persons conducting such investigation shall conduct a fair, prompt, complete and thorough investigation within the bounds of reason and propriety.

VI. Confidentiality

- A. Persons conducting investigations shall not communicate the fact that an investigation is pending nor shall they communicate the contents or findings of such investigation except to appropriate parties.

- B. Persons from whom information is being sought within the course and scope of investigation shall only be informed that a complaint of sexual harassment has been brought and that the information sought of such persons is a necessary part of the investigation.
- C. Breach of confidentiality may result in disciplinary action, including dismissal.
- D. The written contents and findings of investigations shall be maintained by the investigating party in a secure place with limited access while the investigation is underway. Once the investigation is complete, all information shall be filed separately from the official personnel file. If formal disciplinary action is taken, that document shall be filed in the official personnel file. Such records may be made available to any court or federal agency having jurisdiction over sexual harassment complaints.

VII. Rights of persons against whom a complaint of sexual harassment is made

- A. Staff members, instructional personnel or students against whom a complaint is made shall receive confidential notice from the director within three (3) working days after a complaint is received that one has been made.
- B. Any individual against whom a complaint is made has the right to be heard by the director, and the right to produce witnesses and present evidence asserting that the complaint is without merits.
- C. Attorneys or other representatives may accompany or represent such accused individual and/or the complainant at any interviews or hearings once the complaint is in writing.
- D. The individual against whom the complaint is made shall receive a copy of the decision issued at the same time it is rendered to the complainant.

VIII. Frivolous and Groundless Complaints

- A. Where the results of an investigation reveal that a complaint of sexual harassment is wholly frivolous or groundless, the person having made such complaint may be subject to disciplinary action, including dismissal.

IX. Policy Against Retaliation

- A. Reprisal or retaliation is strictly forbidden. This includes both direct retaliation or reprisal, or the encouragement of others to engage in retaliation or reprisal against any person who:
  - 1. Opposes any conduct prohibited by this policy;
  - 2. Complies or encourages others to comply with any provision of this policy;
  - 3. Files a complaint concerning any violation of this policy;
  - 4. Testifies, assists or participates in any investigation or hearing resulting from a complaint under this policy and/or;
  - 5. Exercises or attempts to exercise any right conferred under this policy.

X. Discipline

- A. Any staff member who is found to have engaged in sexual harassment, who is found to have knowingly condoned, encouraged, or perpetuated an act or acts of sexual harassment, or who is found to have in some way participated in retaliation or reprisal, shall be subject to disciplinary action, including but not limited to suspension, loss of pay increment, demotion, or dismissal.
- B. Any instructional personnel who are found to have engaged in sexual harassment, who is found to have knowingly condoned, encouraged, or perpetuated an act or acts of sexual harassment, or who is found to have in some way participated in retaliation or reprisal, shall be subject to disciplinary action, including but not limited to suspension of academy instructional certification. In addition instructional personnel may be subject to sanctions by their employing agency.
- C. Any student who is found to have engaged in sexual harassment, who is found to have knowingly condoned, encouraged, or perpetuated an act or acts of sexual harassment, or who is found to have in some way participated in retaliation or reprisal, shall be subject to disciplinary action, including but not limited to verbal counseling, written reprimand, suspension or dismissal from the academy.