

# **ANR POLICY ON SEXUAL HARASSMENT**

## **July, 2006**

### **A. Introduction**

The University of California and the Division of Agriculture & Natural Resources (ANR) is committed to creating and maintaining a community where all persons who participate in ANR programs and activities can work and learn together in an atmosphere free of all forms of harassment, exploitation, or intimidation. Every member of the ANR community should be aware that ANR is strongly opposed to sexual harassment, and that such behavior is prohibited both by law and by ANR and University policy. The ANR will respond promptly and effectively to reports of sexual harassment, and will take appropriate action to prevent, to correct, and if necessary, to discipline behavior that violates this policy.

### **B. Definition of Sexual Harassment**

Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly effects a person's employment or participation in an education program, unreasonably interferes with a person's work or educational opportunity, or creates an intimidating, hostile or offensive working or learning environment. In the interest of preventing sexual harassment, ANR will respond to reports of any such conduct.

Sexual harassment may occur in hierarchical relationships or between peers, or between persons of the same sex or opposite sex.

In determining whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

This policy covers unwelcome conduct of a sexual nature. While romantic relationships between members of the ANR community may begin as consensual, they may evolve into situations that lead to charges of sexual harassment, subject to this policy.

Harassment that is not sexual in nature but is based on gender, sex-stereotyping, or sexual orientation is also prohibited by the University's policies if it is sufficiently severe to deny or limit a person's ability to participate or benefit from ANR educational programs, employment or services. While discrimination based on these factors may be distinguished from sexual harassment, these types of discrimination may contribute to the creation of a hostile work environment. Thus, in determining whether a hostile environment due to sexual harassment exists, ANR may take into account acts of discrimination based on gender, sex stereotyping, or sexual orientation.

### **C. Retaliation**

This policy also prohibits retaliation against a person who reports sexual harassment, assists someone with a report of sexual harassment, or participates in any manner in an investigation or resolution of a sexual harassment report. Retaliation includes threats, intimidation, reprisals and/or adverse actions related to employment.

### **D. Dissemination of the Policy, Educational Programs, and Employee Training**

As part of ANR's commitment to providing a harassment-free working and learning environment, this policy shall be disseminated widely to the ANR community through publications, websites, new employee orientations, and other appropriate channels of communication. ANR shall make educational materials available to all members of the ANR community to promote compliance with this policy and familiarity with local reporting procedures. ANR shall post a copy of this policy in a prominent place on its website.

### **E. Reports of Sexual Harassment**

Any member of the ANR community may report conduct that may constitute sexual harassment under this policy. In addition, supervisors, managers, and other designated employees are responsible for taking whatever action is necessary to prevent sexual harassment, to correct it when it occurs, and to report it promptly to the Title IX Compliance Coordinator (ANR's Director of Affirmative Action) or other appropriate official designated to review and investigate sexual harassment complaints. An individual also may file a complaint or grievance alleging sexual harassment under the applicable ANR complaint resolution or grievance procedure (*Statement of Policy for ANR Sexual Harassment Complaint Resolution & Procedures*).

### **F. Response to Sexual Harassment**

ANR shall provide a prompt and effective response to reports of sexual harassment in accordance with the ANR *Statement of Policy for ANR Sexual Harassment Complaint Resolution & Procedures*. A prompt and effective response may include early resolution, formal investigation, and/or targeted training or educational programs. Upon findings of sexual harassment, ANR may offer remedies to the individual or individuals harmed by the harassment consistent with applicable ANR policies and procedures. Such remedies may include counseling, or other appropriate interventions. Any member of the ANR community who is found to have engaged in sexual harassment is subject to disciplinary action up to and including dismissal in accordance with the applicable ANR policies and procedures. Generally, disciplinary action will be recommended when the harassing conduct is sufficiently severe, persistent, or pervasive that it alters the conditions of employment or limits the opportunity to participate in or benefit from educational programs. Any manager, supervisor, or designated employee responsible for reporting or responding to sexual harassment who knew about the harassment and took no action to stop it or failed to report the prohibited harassment also may be subject to disciplinary action. Conduct by an employee that is sexual harassment or retaliation in violation of this policy is considered to be outside the normal course and scope of employment.

## **G. Intentionally False Reports**

Because sexual harassment frequently involves interactions between persons that are not witnessed by others, reports of sexual harassment cannot always be substantiated by additional evidence. Lack of corroborating evidence or “proof” should not discourage individuals from reporting sexual harassment under this policy. However, individuals who make reports that are later found to have been intentionally false and made maliciously without regard for truth may be subject to corrective or disciplinary action under the applicable University policy and procedure or collective bargaining agreement. This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.

## **H. Free Speech and Academic Freedom**

As participants in a public university, academic employees/appointees, and staff of ANR enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution and Article I, Section I of the California Constitution. This policy is intended to protect members of the ANR community from discrimination, not to regulate protected speech. This policy shall be implemented in a manner that recognizes the importance of rights to freedom of speech and expression. ANR also has a compelling interest in free inquiry and the collective search for knowledge and thus recognizes principles of academic freedom as a special area of protected speech. Consistent with these principles, no provision of this policy shall be interpreted to prohibit conduct that is legitimately related to the programmatic content, teaching methods, scholarship, or public commentary of an individual academic advisor or staff member or the educational, political, artistic, or literary expression of academic advisors or staff members in public forums. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws.

## **I. Additional Enforcement Information**

The federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) also investigate complaints of unlawful harassment in employment. These agencies may serve as neutral fact finders and attempt to facilitate the voluntary resolution of disputes with the parties. For more information, contact the nearest office of the EEOC, or DFEH listed in the telephone directory.