

RESOLUTION

concerning

CONNECTICUT STATE UNIVERSITY SYSTEM
POLICY ON SEXUAL HARASSMENT

June 11, 1999

WHEREAS, The Board of Trustees for the Connecticut State University System expects all members of the CSU community to conduct themselves in an appropriate manner with concern, dignity and respect for others, and

WHEREAS, In 1989 the Board endorsed the policy regarding racism and acts of intolerance adopted by the Board of Governors for Higher Education which, in part, states:

“Acts of violence and harassment reflecting bias or intolerance of race, religion, gender, sexual orientation, disability, and ethnic or cultural origins are unacceptable...”

and

WHEREAS, The CSU System Office and each of the four universities which make up the CSU System have developed and maintain an Affirmative Action Plan in accordance with CGS 4-61s as amended, and

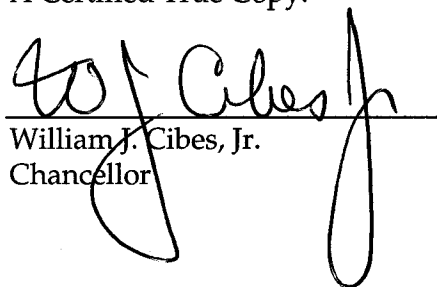
WHEREAS, Such Affirmative Action Plans require the CSU System to provide for equal opportunity and to ensure compliance with all existing federal and state constitutional provisions, laws, regulations, guidelines, and executive orders prohibiting or outlawing discrimination, identifying classes of persons protected based on race, color, religious creed, age, sex, marital status, sexual orientation, national origin, ancestry, present or past history of mental disorder, mental retardation or physical disability, including but not limited to blindness, except for bona fide occupational qualifications, and

WHEREAS, The CSU Council of Presidents has endorsed the development of a systemwide policy on sexual harassment, therefore be it

RESOLVED, That the attached document entitled "Connecticut State University System Sexual Harassment Policy" is hereby adopted, and be it further

RESOLVED, That the CSU Board of Trustees reaffirms its commitment that acts of discrimination or harassment against any protected classes of persons shall not be tolerated.

A Certified True Copy:



William J. Cibes, Jr.
Chancellor

**CONNECTICUT STATE UNIVERSITY SYSTEM
SEXUAL HARASSMENT POLICY**

SECTION 1. PURPOSE

The Connecticut State University System reaffirms and emphasizes its commitment to maintain a workplace and educational environment free from sexual and other forms of illegal harassment. Sexual and other harassment is reprehensible and subverts the mission of the university and will not be tolerated at the Connecticut State University System. It threatens the careers of employees, faculty and staff, and the educational experience of our students. The purpose of this policy is to prevent sexual harassment and to offer students and employees who believe they have been sexually harassed a means to redress any such claim with the goal of ending the harassment and providing an environment conducive to learning and working. Retaliation against an individual who complains about sexual harassment or who cooperates with an investigation of a complaint is unlawful and, if found to have occurred, will not be tolerated.

SECTION 2. STATUTORY AUTHORITY

Sexual harassment is prohibited by Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, Section 46a-60 of the General Statutes of Connecticut and University policy. Harassment based on other protected classes covered by state or federal law is also prohibited. It is the intention of the CSU to take whatever appropriate action may be needed to prevent, correct, and if necessary, discipline behavior that violates this policy.

SECTION 3. POLICY STATEMENT

All members of the CSU community shall conduct themselves in an appropriate manner with concern, dignity and respect for others. The CSU community includes students, employees, and non-employees when they conduct business on CSU property.

Sexual and other illegal harassment may occur between staff and staff, staff and student, student and student. Complaints of sexual and other illegal harassment within the Connecticut State University System will be taken seriously and investigated. Any member of the CSU community who violates this policy is subject to the full range of disciplinary action. While there is a difference between illegal conduct and unprofessional or inappropriate conduct in the CSU community sexual or other harassment need not be intentional to violate this policy.

In the event of a charge of sexual harassment, a defense based upon consent will be given little weight when the facts establish an employee/student or supervisor/employee relationship existed. Since any significant power differential between members of the CSU community makes voluntary consent questionable, members of the faculty and staff are expected to be aware of their professional responsibilities and avoid apparent or actual conflict of interest.

An individual with a complaint concerning sexual harassment has a right to be heard. By means of these procedures, the CSU ensures an opportunity for an individual (Complainant), without fear of retaliation, to express a complaint and to seek a prompt and equitable resolution while protecting the rights of the person against whom the complaint has been filed (Respondent). These procedures shall be available to any person who, at the time of the act complained of, was an employee, student, or applicant for employment or admission to the Connecticut State University System.

SECTION 4. DEFINITION OF SEXUAL HARASSMENT

“Any unwelcome sexual advance or requests for sexual favors or any 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, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual’s work or academic performance or creating an intimidating, hostile, or offensive working or environment”. In an academic setting sexual harassment would also include any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when submission to or rejection of such conduct by an individual might affect academic or personal decisions that are subject to the influence of the person making the proposal.

The law currently recognizes various forms of sexual or other harassment:

1. Quid Pro Quo

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

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s academic work or employment; or
- b. Submission to or rejection of such conduct by an individual is used as the basis of employment or academic decisions affecting such individuals; and

2. Hostile Environment

- a. Such contact affects or interferes with an individual's work or academic performance or creates an intimidating, hostile or offensive academic or working environment. Hostile environment sexual harassment involves speech or conduct that is directed at someone because of their gender and/or is conduct of a sexual nature. Such speech or conduct includes, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature.
- b. Such speech or conduct is reasonably regarded as offensive and substantially impairs the academic or work opportunity of students, colleagues or co-workers. This policy shall not be interpreted so as to constitute interference with academic freedom.

3. Gender Harassment

- a. Gender harassment is a form of sexual harassment, which consists of discriminatory behavior towards an individual based on gender. It includes the use of sexist language, illustrations, examples and gestures that demonstrate discriminatory behavior. Sexually related conduct forms the basis of a sexual harassment claim if a reasonable person of the same gender would consider the actions sufficient to interfere unreasonably with the academic and/or employment performance of the Complainant.

4. Other Harassment: Harassment against any other protected class member covered by state or federal law.

SECTION 5. EXAMPLES OF SEXUAL HARASSMENT

While it is not possible to list all conduct which may constitute sexual harassment, the following are some examples of conduct which may constitute sexual harassment depending upon the totality of the circumstances, including the severity of the conduct and its pervasiveness. Examples of sexual harassment may include but are not limited to:

1. Direct unwanted proposition of a sexual nature.
2. Direct or implied threats that submission to sexual advances is a condition of employment, promotion, or advancement in grades, letters of recommendation, scholarships, or any related matter.

3. A pattern of conduct intentionally intended and/or which has the effect of humiliating another that includes examples of the following; comments of a sexual nature; sexually explicit statements, questions, anecdotes, jokes, pictures, or other written materials;
4. A pattern of conduct that would humiliate another (using the reasonable person standard) which would include the following:

Unnecessary touching, patting, hugging, or brushing against another's body, remarks of a sexual nature about a person's clothing or body, or remarks about sexual activity or speculations about sexual experiences.

SECTION 6. CONFIDENTIALITY

The Connecticut State University System is committed to take corrective action when it becomes aware of a problem involving sexual or other harassment. Individuals who feel that they have been subjected to any instance of sexual or other harassment or instances of a pattern of sexual or other harassment are strongly encouraged to come forward with complaints regarding sexual harassment and to seek assistance from CSU officials. The CSU cannot insure confidentiality upon receipt of a complaint of sexual harassment; however, dissemination of information relating to the case should be limited, in order that the privacy of all individuals involved is safeguarded as fully as possible to the extent permitted by law. The CSU will enforce compliance with the non-retaliation provision of this policy. The CSU may proceed to investigate a complaint without the consent of the individual who originally filed the complaint.

SECTION 7. COMPLAINT PROCEDURES

The Connecticut State University System is committed to take reasonable care to prevent and correct any sexually or other harassing behavior or other forms of unlawful discrimination at the System Office and at the four universities. Complaints alleging a violation of this policy shall be addressed through established discrimination and sexual harassment procedures at each university. Procedures for the handling of complaints involving claims of discrimination or sexual harassment are available through the Affirmative Action Officer at the university. These procedures will allow for an informal resolution of the complaint. If the informal process is unsuccessful or if the Complainant wishes to bypass the informal process, he/she may file a formal complaint. Complaints should be lodged as soon as possible after the alleged incident.

Students alleging a violation of this policy may file a sexual or other harassment complaint following established procedures noted in their University's Student Handbook.

SECTION 8. ALTERNATIVE LEGAL REMEDIES

Nothing contained in the Policy is intended to deny any member of the Connecticut State University community the right to pursue other avenues of recourse in the event he/she believes that he/she has experienced sexual harassment. Such recourse may include filing charges with a state or federal enforcement agency, or initiating civil or criminal action under state and federal law. Complaints must be filed within 180 days with the Connecticut Commission on Human Rights and Opportunities, 21 Grand Street, Hartford, CT 06106, Telephone 860/477-5737.

SECTION 9. DISSEMINATION OF POLICY

This Policy shall be conspicuously posted in the System Office. The System Office and each university shall conform to statutory requirements for posting. In addition, each university shall ensure its dissemination in accordance with established practice. This policy shall appear in the student handbook and faculty handbook and shall be reviewed periodically for compliance with state and federal law.

FOR FURTHER INFORMATION ABOUT THIS POLICY OR INFORMATION REGARDING THE PROCESS FOR FILING A COMPLAINT, CONTACT THE AFFIRMATIVE ACTION DIRECTOR. STUDENTS SHOULD CONSULT THEIR UNIVERSITY STUDENT HANDBOOK FOR FURTHER INFORMATION REGARDING THE PROCESS FOR FILING A COMPLAINT.



Connecticut State University System

cc: Becky Emme



October 20, 1998

Dr. David G. Carter
President
Eastern Connecticut State University
83 Windham Street
Willimantic, CT 06226

Dear Dr. Carter:

Dr. Cibes has discussed with me your concerns regarding the development of a statewide sexual harassment policy for CSU and the potential impact of recent Supreme Court decisions. I am aware that the Council of Presidents previously discussed this issue. I wanted to take the opportunity to tell you what I have done thus far, prior to bringing a recommended policy to the COP. I have received and reviewed the existing policies of each of the universities and as you know, each is slightly different. Southern has a draft policy that does take into account the Supreme Court decisions of late. I believe that it could serve as a good model for a systemwide policy, particularly since it has been developed in consultation with our attorney, Naomi Stonberg.

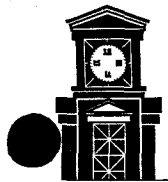
However, the issue you raise regarding relationships between university staff and faculty being incorporated into the sexual harassment policy is much more complex. There are several ways to address this issue. I am currently reviewing the policy you suggested at Yale, as well as several other private and public university policies on this issue. I also think that it would be wise to get additional advice on this specific topic from our attorneys, which I am in the process of doing.

I expect that I will be able to bring you and the other Presidents a more detailed report at your next COP meeting. In the meanwhile, please let me know if there is anything more that you would like to have addressed.

Sincerely,

Yvette Melendez Thiesfield
Chief Administrative Officer

cc: Dr. William J. Cibes, Jr.

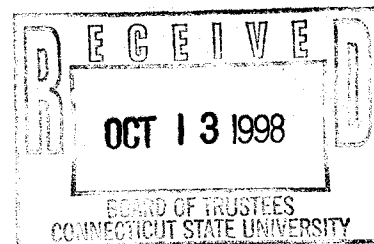


Eastern Connecticut State University

83 Windham Street ■ Willimantic ■ Connecticut 06226 ■ 860-465-5222

Office of the President

October 5, 1998



Dr. William J. Cibes, Jr.
Chancellor
The Connecticut State University System
39 Woodland Street
Hartford, Connecticut 06105-2337

Dear Dr. Cibes:

As I indicated during our telephone conversation on Friday, October 3, 1998, I remain concerned about the recent United States Supreme Court decisions that hold employers and their agents responsible, in certain instances, when employees are sexually harassed. The Court also indicated that in some instances employers are responsible even if they didn't know the individual was being harassed (see enclosed). The bottom line is that employers must be proactive. This means employers should take steps that will cause everyone in the work place to know that sexual harassment will not be tolerated. For this reason, I urge you to have a staff member prepare a policy statement that could be added to the existing board policy at the next Board of Trustees meeting indicating that professors or any other employee cannot have dating relationships with students. I am sure I am not saying this very well. The staff member may want to review the policy at Yale that addresses this issue.

Thanks for giving this matter serious consideration.

Sincerely,

David G. Carter
President

DGC/dsk

Enclosure



A campus of the Connecticut State University System ■ An equal opportunity institution

RECENT SUPREME COURT DECISIONS

1. Oncale v. Sundowner Offshore Services, Inc.

Court held that same sex harassment constitutes sex discrimination in violation of Title VII where the victim can prove that the conduct at issue was:

- a. because of sex and;
- b. sufficiently severe or pervasive enough to alter the condition of the victim's employment.

2. Burlington Industries v. Ellerth

Court held that employers can be liable for sexual harassment actions by supervisors even if they did not know or should have known of the harassing conduct. Employers may avoid liability if:

- a. they act reasonably to prevent and promptly correct any harassment and;
- b. complainant unreasonably fails to utilize the employer's internal complaint procedures.

3. Faragher v. City of Boca Raton

Court held that an employer has vicarious liability for an employee who has been subjected to hostile environment sexual harassment by a supervisor with immediate authority over the employee. But employer can avoid liability if it demonstrates that:

- a. complainant suffered no tangible employment action;
- b. employer exercised reasonable care to prevent and promptly correct any sexual harassing behavior or;
- c. complainant unreasonably failed to take advantage of any preventive or corrective opportunities provided by employer or to otherwise avoid harm.

4. Gebser and McCullough v. Lago Vista Independent School

The Supreme Court held that a public school district cannot be held liable for a teacher's sexual harassment of a student under Title IX unless it has knowledge of the harassment and fails to adequately respond.