Sexual Harassment Guide

CSTCM Sexual Harassment Policy
Colorado School of Traditional Chinese Medicine (CSTCM) is committed to providing an educational and employment environment free of harassment and other forms of discrimination on the basis of race, color, religion, national origin, gender, sex, disability, or veteran status of and by faculty, staff, and students. CSTCM policies relating to harassment and/or discrimination are published, are available in the CSTCM Admin, Faculty and Student Handbooks.

All members of the CSTCM community should be aware that the CSTCM prohibits and will not tolerate sexual harassment of its faculty, staff, students, clinic patients and or visitors to the campus. Each member of the CSTCM community is expected to support efforts to keep the campus free of sexual harassment. It therefore is the policy of CSTCM that sexual harassment is unacceptable and will not be tolerated. This prohibition applies to all faculty, staff, students, other persons on CSTCM premises subject to CSTCM control, and to those engaged to further the interests of CSTCM.

Sexual Harassment is Illegal
CSTCM has a legal obligation to provide a harassment/discrimination-free environment. Sexual harassment is prohibited under Title VII of the Civil Rights Act of 1964 as a form of employment discrimination on the basis of sex. Also, courts have held that sexual harassment of students violates Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in any educational program or activity receiving federal financial assistance.

CSTCM is committed to providing a working and learning environment free from sexual harassment. Management and supervisory personnel, at all levels, are responsible for taking reasonable and necessary action to prevent sexual harassment. CSTCM will take seriously all sexual harassment complaints and respond in accordance with its Sexual Harassment Policy; take appropriate action to provide remedies when sexual harassment is discovered; impose appropriate sanctions upon individuals who have been found to be in violation of CSTCM’s policy; and, to the greatest extent possible, protect the privacy of those involved in sexual harassment complaints. It is the responsibility of all CSTCM members (employees, students, guests, vendors) to inform the CSTCM administration if they know or should have known that offending conduct is being committed between CSTCM members. Immediate and appropriate corrective action must be taken.

CSTCM is also committed to the principles of free inquiry and free expression and to creating an environment that encourages the active exploration and exchange of ideas. CSTCM’s discrimination and harassment policies are not intended to impair this freedom, nor will they be permitted to do so. Prohibited discrimination and harassment, however, are neither legally protected expression nor the proper exercise of academic freedom.

Sexual Harassment Defined
Sexual harassment involves unwelcome sexual advances, requests for sexual favors or verbal or physical conduct of a sexual nature. It is often imposed upon a person in an unequal power relationship through the abuse of authority. Central to this concept is the use of implied reward or threat of deprivation that interferes with the academic or work effectiveness of the victim.

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

- Submission to, or rejection of, such conduct by an individual is made explicitly or implicitly a term or condition of an individual's employment or participation in academic activities;
- Submission to, or rejection of, such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; or
• Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or of creating an intimidating, hostile, or offensive working or study environment.

Sexual harassment can take different forms; accordingly, the determination of what constitutes sexual harassment will vary according to the particular context and circumstances. Examples of sexual harassment include, but are not limited to:

• Seeking sexual favors or relationships in return for the promise of a favorable grade or other academic opportunity;
• Conditioning an employment related action (such as hiring, promotion, favorable work assignment, salary increase, or performance appraisal) on a sexual favor or relationship;
• Intentional and undesired physical contact, sexually offensive conduct by individuals in positions of authority, or by co-workers, students, clients, contractors, or visitors that unreasonably interferes with the ability of a person to perform her/his academic or employment-related responsibilities.

Federal law generally has recognized two different grounds for claiming sexual harassment.

**Quid pro quo** harassment occurs when a person in authority, usually a supervisor or instructor, demands sexual favors in exchange for a job, promotion, grade, or other favorable treatment. In quid pro quo cases, the offense is directly linked to the individual's terms of employment or academic success, or forms the basis for employment or academic decisions affecting the individual.

A **hostile work environment** can exist when another person engages in unwelcome and inappropriate sexually based behavior severe or pervasive enough to render the workplace or academic atmosphere intimidating, hostile, or offensive. Usually a pattern of this sort of behavior is required, but one incident can be enough, if sufficiently severe or outrageous.

Sexual harassment can be exhibited using three types of behaviors - **verbal, non-verbal behaviors and gestures and physical contact**. Some types of verbal behavior that might constitute sexual harassment, especially when occurring in combination with offensive touching are:

• Continuous and persistent sexual slurs or sexual innuendoes
• Offensive and persistent risqué jokes or kidding about sex or gender-specific traits
• Repeated unsolicited propositions for dates and/or sexual relations

Gestures or non-verbal behaviors might also be considered sexual harassment where they are persistent, severe, and offensive. Examples may include:

• Sexual looks and lewd gestures, such as leering or ogling with suggestive overtones
• Touching oneself sexually or persistent and unwelcome flirting
• Displaying sexually suggestive pictures, calendars, or posters
• Stalking

There is a range of unwanted physical contact, ranging from offensive behavior to criminal acts that may also constitute sexual harassment. Some examples of unwanted physical contact include:

• Unwelcome touching, rubbing oneself sexually against another person, pinching or stroking
• Attempted or actual kissing or fondling, cornering or mauling
• Physical assault
• Coerced sexual activity
• Attempted rape or rape

**Sexual Harassment in Context**

There is no typical harasser. A harasser can be male or female, young or old, and from any background. Harassers often have or seek to gain power over an individual or individuals and use that power in a negative way to help themselves feel "in control." Harassers may look for "victims" who appear to be weaker and less likely to fight back.
This might be because they fear retaliation in the form of loss of employment, economic loss, loss of benefits, loss of status, loss of promotional opportunities, impairment of academic success, or, in some cases, fear of physical or emotional harm. Such harassment can take place not only in supervisor/subordinate relationships, but also within work groups, classrooms, or student groups as well.

It should be stressed that while some behaviors may be offensive or unprofessional, they may not necessarily be considered sexual harassment. For example, general use of profanity and vulgar language may not be sexual harassment unless it is sexually oriented or overused to the point that a hostile work environment is created. In addition, isolated incidents may not be sufficient to create a hostile work environment. Frequent occurrences of minor offensive and unwelcome behavior, however, may be enough. Further, a single and egregious incident may rise to the level of sexual harassment depending upon the severity of the event.

**Sexual Harassment - Perception Vs. Intent**

An individual's perception of what is, or is not, sexual harassment, adds greatly to the complexity of the sexual harassment issue. Well intentioned gestures such as a pat on the shoulder, touching, lewd remarks, jesting comments of a sexual nature, or physical contact may be interpreted as acts of sexual harassment by one recipient, while another may dismiss them as merely annoying. Likewise, some individuals may perceive leering or ogling as sexual harassment, while others may perceive the same behavior as looking or staring and may attribute no meaning to it.

Often people accused of sexual harassment may not realize that they have committed acts of harassment. Accused harassers may have intended only to be funny or even complimentary, and may believe that their conduct is not only appropriate and acceptable, but also appreciated. They are often truly shocked when they are told that someone considered their behavior to be sexual harassment.

In determining whether behavior is to be considered sexual harassment, the courts generally use the "reasonable woman or man" standard. Using this standard, a court should ask whether a reasonable victim of the same sex as the plaintiff would consider the comments or actions sufficiently severe or pervasive enough to create an abusive working environment. Another way to look at the issue – and your own behavior – is to ask whether you would want your spouse or partner, child, or parent to be subjected to the same type of behavior. At the same time, however, courts also look to determine whether the conduct was actually perceived to be abusive by the person who is the subject of the harassment. Prevention is the best tool for the elimination of sexual harassment. All CSTCM members are responsible to prevent sexual harassment from occurring.

**If you feel you are experiencing sexual harassment, please contact;**

CSTCM Academic Dean 303-329-6355 Ext. 15, Dean@cstcm.edu. (The Dean’s office will provide female or male official to respond to any concerns regarding harassment)

**General Questions and Answers about Sexual Harassment**

**Can I compliment one of my students or coworkers?**

Yes, as long as your compliments are free from sexual undertones. Compliments such as "Nice legs" or "You look really sexy in that outfit" can make your co-worker or student feel uncomfortable or threatened. Even if the person you're complimenting isn't bothered by the comments, others might be. If you are uncertain about acceptable comments or are not able to keep compliments positive then keep it simple and do not discuss how a person looks. Talk about the weather or just stick to business matters. In general, many legal counselors suggest avoiding comments, jokes or inferences while at the workplace and or in school. This counsel is good advice and applies equally among employees, faculty and students. Cultivated neutrality is probably the best policy.

**How about asking for a date? Do I have to take "no" for an answer?**

In general, relationships among cohorts, classmates and associates are more complicated than relationships that develop outside of the workplace or school. There are more risks involved and more complications that can develop because the interactions among cohorts are likely to exist for a long period of time. What happens if a cohort relationship begins to develop and then goes awry or does not work out? Now those who were involved will probably have to interact at school for several years. This can become awkward and stressful. Social wisdom
suggests being cautious about involvement with cohorts, especially when cohorts are developing as future professionals. While you may want to get together socially with a cohort whom you find attractive, one should exercise care and judgement in these situations. Asking for a date could be acceptable as long as you make sure the desire and attraction for socializing are mutual. If you are turned down for a date, simply accept that and move on. Do not continue to ask or badger cohorts. Being considerate usually garners more friends than being pushy or demanding. Be aware, though, that some people don't feel comfortable saying no being asked out, for fear of offending you, or provoking some type of retaliation. Use your judgment. If the person says no more than once, or is uncomfortable or evasive when you ask, don't use pressure. Accept the answer and move on. Also, please refer to the CSTCM Consensual Relationship Policy for more information about this topic.

**What's wrong with hanging sexy pictures in my own office or work area?**

Sexually oriented objects and visuals, such as pinups, centerfolds from sex magazines and calendars portray people as sexual objects in demeaning circumstances. They can contribute to an offensive, intimidating and hostile work or academic environment and create the potential for a sexual harassment complaint. Your work space, classroom space, your attire and equipment are reflections of you as a professional. It is considered unprofessional to wear or display on clothing, backpacks, equipment and electronic media anything with sexual, profane or provocative language, images or comments. It also opens those in the work place and academic settings to potential liability through harassment, discrimination and other types of complaints and can lead to disciplinary actions ranging from reprimands and citations to being taken to court for illegal discrimination and harassment. A professional, either established or students developing as professionals, are required to abide by professional standards of conduct and ethics. These guidelines alone make the question above null, as a professional would not even entertain such practices. Professionals must be available to interact with persons from all backgrounds and belief systems. Provocative materials are not professional.

**Can I be accused of harassing someone if we are both the same gender?**

Yes. Harassment is not limited to conduct directed towards a different gender. In addition, harassment of someone because of actual or perceived sexual orientation or gender identity is prohibited.

**Handling Sexual Harassment Complaints**

CSTCM has established guidelines for addressing and resolving complaints of unlawful discrimination and harassment and rape/sexual assault, which apply to sexual harassment complaints. These guidelines address only the available CSTCM procedures, and do not include other processes that may be available under federal, state, or local law. The CSTCM guidelines are set forth below.

**Introduction**

The purpose of this section is to clarify CSTCM’s policy and procedures for responding to sexual harassment and community members' options in the event an incident occurs. As explained below, CSTCM provides community members with three reporting contacts.

The Academic Dean is the first and primary reporting contact for CSTCM community members. (Employees, Faculty & Students) 303-329-6355 Ext. 15, Dean@cstcm.edu

The second option is to report to Assistant Academic Dean. 303-329-6355 Ext 25 or Ext 34, Assistantdean@cstcm.edu

The third option is to contact the CSTCM Board of Directors and or the CSTCM legal advisor. CSTCM Board of Directors 1441 York St, #202, Denver CO 80206 BOD@cstcm.edu

CSTCM legal advisor: Larry Harvey Attorney; 303-220-7810: lharvey@ldhpc.com

A community member may request confidential counseling and guidance; opt to make a report and seek informal resolution; file a complaint and seek formal resolution; or pursue any combination of the three foregoing options. Counseling and guidance is considered to be confidential and will not, by itself, trigger further CSTCM action. Reports, on the other hand, will be kept confidential only to the extent consistent with the CSTCM’s obligation to
investigate and address complaints. These points are explained in greater detail below. In addition, this guidance lists the counseling and reporting offices of the CSTCM available to community members.

Community members also are advised to refer to the CSTCM’s Sexual Violence, Relationship Violence and Stalking Policy, most recently republished in the Administrative Employee Staff Manual as well as the Faculty and Student Handbooks.

**CSTCM Resources**

All members of the CSTCM community should be aware of CSTCM resources available to victims of unlawful discrimination or harassment or sexual assault. These are internal to CSTCM. Community members also should be aware that similar resources are available to all victims of unlawful discrimination or harassment, not just sexual harassment. Discrimination or harassment on the basis of race, national origin, religion, sexual orientation, gender identity, or any other characteristic protected by applicable law is against CSTCM policy.

**Reporting Stages**

**Stage 1 Confidential Guidance:**

Faculty, staff, and students who believe that they, or someone they know, have been a victim of discrimination, harassment, or rape/sexual assault may seek advice, guidance, or support from the reporting office listed below. Conversations with these offices are considered confidential, to the extent permitted by law. These offices may provide support, information, options, guidance and counseling. To protect the confidential nature of these discussions, all parties should be aware that discussing a matter with any of these offices is not considered a report to the CSTCM or a request that any action be taken by the CSTCM in response to any allegation.

CSTCM Academic Dean 303-329-6355 Ext. 15, [Dean@cstcm.edu](mailto:Dean@cstcm.edu).
(The Dean’s office will provide female or male official to respond to any concerns regarding harassment)

**Stage 2 Reporting Levels, Informal and Formal**

Any community member may seek advice from one of the contacts listed above. If initial discussions indicate further action is needed then the community member will be advised on how to proceed with informal reporting and discussions on seeking appropriate resolution. If informal reporting and resolution are not adequate to address the concerns then a formal written report reporting the incident and requesting further action, such as investigation and redress is required.

These reporting offices will keep reports confidential, but only to the extent consistent with the CSTCM’s need to investigate the allegations and to take remedial action, if appropriate.

After making a report, the community member may pursue informal or formal resolution, or both. What constitutes informal resolution and formal resolution is described below.

**Resolution of Reports**

**Informal Resolution**

If the community member wants to resolve the matter informally, the reporting office may arrange for mediation or negotiation or some other form of voluntary resolution.

Any reporting office identified above may be involved in informal resolution. Where appropriate, the reporting office may ask another reporting office to investigate or resolve the matter. In the usual case, the appropriate Administrators, Deans, Clinic Directors, Faculty or other designated agents could be consulted and or advised of the matter.
Formal Complaint Resolution

If a faculty member, student or staff member chooses not to pursue informal resolution, or if informal resolution fails, then the community member may pursue formal action. Formal action is initiated by filing a detailed written complaint with a reporting office. The community member must sign the complaint and include in it what he or she believes to be the relevant facts. CSTCM will investigate the complaint, which may include advising persons named in the complaint, and will take remedial action, if appropriate.

CSTCM must ensure that investigations conform to CSTCM policy. The process must also be fair to both the person filing the complaint and any person(s) named in the complaint.

a. If the Formal Complaint is against a student, the Dean, Administration, Board and or faculty then CSTCM legal advisor may be consulted for advice and guidance to develop a plan of action to handle the Complaint in accordance with the procedures set forth in the Admin Handbook.

b. If the Formal Complaint is against a staff member, the Administration, Board and CSTCM legal advisor are consulted to develop a plan of action to handle the Complaint, in accordance with the CSTCM’s policies and procedures.

Non-Retaliation

CSTCM will not tolerate retaliation against an individual who in good faith reports, complains about, or participates in an investigation into an allegation of unlawful discrimination or harassment or sexual assault. Any member of the community who believes that he or she has been retaliated against should file a complaint with the Administration, CSTCM Board and or the CSTCM legal advisor.

Confidentiality

At CSTCM there are two levels of confidentiality that can apply to a discrimination, harassment, or sexual assault issue.

Conversations with reporting offices, identified above afford the community member the highest level of confidentiality under CSTCM policy. Members of the community who wish only to talk about their experience, gather information, learn about their options, or seek support may use the resources of these reporting offices. CSTCM ordinarily will not investigate statements in such conversations without the community member's consent.

A complaint made to a reporting office, on the other hand, will be confidential, but only to the extent that such confidentiality does not affect CSTCM’s investigation into and/or response to the complaint. The reporting offices' responsibility is to make sure that CSTCM responds promptly and fairly to complaints and takes appropriate remedial action. These offices can respond to questions; provide information, support, and guidance; discuss options; and, when appropriate, refer community members to other offices.

CSTCM always reserves the right to take any appropriate action whenever it believes there to be a substantial risk to any community member's health or safety, or to disclose information required by law or legal process.