



## **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 Title IX Coordinator (Academic Dean) 303-329-6355 Ext. 15, Dean@cstcm.edu

## **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 consul 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 taking 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.

## ***Consensual Relationships Policy***

The relationship between teacher and student is central to the academic mission of the CSTCM. No non-academic or personal ties should be allowed to interfere with the integrity of the teacher-student relationship. Consensual sexual relations between teacher and student can adversely affect the academic enterprise, distorting judgments or

appearing to do so in the minds of others, and provide incentives or disincentives for student-faculty contact that are equally inappropriate.

For these reasons, the CSTCM's policy prohibits sexual relations between a teacher and a student during the period of the student's enrollment at CSTCM. The prohibition extends to sexual relations between a graduate or student and a student, when the graduate or professional student has some supervisory academic responsibility for the student, to sexual relations between Department Chairs and students in that department, and to sexual relations between graduates acting as CSTCM faculty or representatives and students. In addition, it includes sexual relations between academic advisors, program directors, and all others that have supervisory academic responsibility for a student, and that student. CSTCM must respond to reports of prohibited sexual relations that are brought to them by inquiring further, and if such reports appear to be accurate, initiating appropriate disciplinary action or remedial measures against the teacher or supervisor involved.

CSTCM policy also prohibits any sexual relations between faculty or staff and students.

The foregoing principles also apply to sexual or romantic relationships between a supervisor and supervisee on the staff of the CSTCM. Even when both parties have consented to the relationship, serious concerns may be raised about the validity of the consent, a conflict of interest, and/or unfair treatment of others.

The Administrative Director, Deans, Clinic Director and other administrators should respond to reports of prohibited sexual relations that are brought to them by inquiring further, and if such reports appear to be accurate, initiating appropriate disciplinary action or remedial measures against the teacher or supervisor involved.

This Consensual Relationships policy supplements the CSTCM's policy on Sexual Harassment. In addition, CSTCM prohibits any sexual relations between members of the faculty or administration and students.

## **Consensual Relationships and Sexual Harassment - Perception Vs. Intent**

The relationship between teacher and student is central to the academic mission of the CSTCM. No non-academic or personal ties should be allowed to interfere with the integrity of the teacher-student relationship. Consensual sexual relations between teacher and student can adversely affect the academic enterprise, distorting judgements or appearing to do so in the minds of others, and providing incentives or disincentives for student-faculty contact that are equally inappropriate.

These principles also apply to sexual or romantic relationships between a supervisor and subordinate on the staff of the school. Even when both parties have consented to the development of the relationship, serious concerns may be raised about the validity of the consent, conflict of interest, and/or unfair treatment of others.

## **CSTCM Policy Regarding Consensual Sexual or Romantic Relationships In the Workplace and Educational Setting**

This policy highlights the risks in sexual or romantic relationships in the CSTCM workplace or academic setting between individuals in inherently unequal positions; prohibits certain relationships between teachers and students; and requires recusal (from supervision and evaluation) and notification in other relationships.

Applicability: Applies to all students, faculty, staff, and others who participate in CSTCM programs and activities.

### **1. In General**

There are special risks in any sexual or romantic relationship between individuals in inherently unequal positions, and parties in such a relationship assume those risks. In the CSTCM context, such positions include (but are not limited to) teacher and student, supervisor and employee, senior faculty and junior faculty, mentor and trainee,

adviser and advisee, teaching assistant and student, clinic supervisor, assistant clinic supervisor, and individuals who interact with and supervise the day-to-day student activities at or associated with CSTCM.

Because of the potential for conflict of interest, exploitation, favoritism, and bias, such relationships may undermine the real or perceived integrity of the supervision and evaluation provided. Further, these relationships are often less consensual than the individual whose position confers power or authority believes. In addition, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a sexual or romantic involvement, this past consent does not remove grounds for a charge based upon subsequent unwelcome conduct.

Such relationships may also have unintended, adverse effects on the climate of an academic program or work unit, thereby impairing the learning or working environment for others – both during such a relationship and after any break-up. Relationships in which one party is in a position to evaluate the work or influence the career of the other may provide grounds for complaint by third parties when that relationship gives undue access or advantage, restricts opportunities, or simply creates a perception of these problems.

For all of these reasons, sexual or romantic relationships--whether regarded as consensual or otherwise--between individuals in inherently unequal positions should be avoided and are strictly prohibited by this policy. Since these relationships can occur in multiple contexts on campus, this policy addresses certain contexts specifically. However, the policy covers all sexual and romantic relationships involving individuals in unequal positions, even if not addressed explicitly in what follows.

## **2. With Students**

At a CSTCM, the role of the teacher is multifaceted, including serving as intellectual guide, mentor, role model tutor, clinic supervisor, clinic forum advisor and advisor. This role is at the heart of the CSTCM's educational mission and its integrity must be maintained. The teacher's influence and authority can extend far beyond the classroom and into the future, affecting the academic progress and careers of our students.

Accordingly, CSTCM expects teachers to maintain interactions with students free from influences that may interfere with the learning and personal development experiences to which students are entitled. In this context, teachers include those who are entrusted by CSTCM to teach, supervise, mentor, tutor and coach students, including faculty and consulting faculty of all ranks, lecturers, academic advisors, and clinic supervisors.

As a general proposition, CSTCM believes that a sexual or romantic relationship between a teacher and a student– is inconsistent with the proper role of the teacher. Not only can these relationships harm the educational environment for the individual student involved, they also undermine the educational environment for other students. Furthermore, such relationships expose the teacher to charges of misconduct and create a potential liability, for the teacher, and CSTCM if it is determined that laws against sexual harassment or discrimination have been violated.

Consequently, CSTCM has established the following parameters regarding sexual or romantic relationships with CSTCM students:

*Because of the relative professional inexperience of students and their particular vulnerability in such relationships, sexual or romantic relationships between teachers, clinic supervisors, faculty, admin, staff and students are prohibited – regardless of current or future academic or supervisory responsibilities for that student.*

Certain staff roles (including deans and other senior administrators, tutors, supervisors of student employees, as well as others who mentor, advise or have authority over students) also have broad influence on or authority over students and their experience at CSTCM. For this reason, sexual or romantic relationships between such staff members and students are prohibited. Similarly, relationships between staff members and other students over whom the staff member has had or is likely in the future to have such influence or authority are prohibited.

### **3. Additional Matters**

If there is any doubt whether a relationship falls within this policy, individuals should disclose the facts and seek guidance rather than fail to disclose. Questions may be addressed to your the Dean or to the Admin Director, or in confidence by letter to the CSTCM Board of Directors.

Employees who engage in sexual or romantic relationships with a student or other employee contrary to the guidance, prohibitions and requirements provided in the policy are subject to disciplinary action up to and including dismissal, depending on the nature of and context for the violation. They will also be held accountable for any adverse consequences that result from those relationships.

### **CSTCM Policy on Sexual Involvement of Staff with Students & Staff with Staff**

CSTCM is committed to creating and maintaining a community in which all persons who participate in programs and activities can work together in an atmosphere free of all forms of harassment, exploitation, or intimidation, including sexual. CSTCM does not in any way support or condone unethical behavior or actions which jeopardize the students' educational process in any way.

Specifically, every member of the community should be aware that CSTCM is strongly opposed to sexual harassment and sexual misconduct and that such behavior is prohibited both by law and by CSTCM policy. It is the intention of the school to take whatever action may be needed to prevent, correct, and, if necessary, discipline behavior which violates this policy.

In order to provide for our students a safe and empowered space to learn and grow, and to maintain a smooth functioning professional environment for all to work in, it is CSTCM's policy that:

All CSTCM employees and contractors and faculty, including assistants and aides and permanent and temporary members of the office staff, will refrain from sexual involvement with any student enrolled at CSTCM.

If an employee is in a personal, dating and/or intimate relationship with someone who chooses to become a CSTCM student or CSTCM employee, that employee will be required to let the Admin Director know the nature of the relationship before this person begins class or employment at CSTCM. The same applies if an employee is in a relationship with another student or employee and wants to enter into the work study program or teaching staff. Employees will not be required to "hide" such a relationship, but will be held to professional conduct while on the school premises or conducting school business.

It is considered the professional duty of all to protect the interests of the students and to confront co-workers on any inappropriate behavior which may include sexual harassment or sexual intent. If such behavior cannot be examined and corrected at the staff level, it should be brought to the attention of the Administrative Director.