

APPENDIX 4: Policy on Harassment

Workplace Harassment

It is the policy of Delta State University that all employees, students, customers, contractors, and visitors to our campus enjoy a positive, respectful and productive work environment free from behavior, actions or language constituting workplace harassment.

Definitions

Sexual Harassment: Unwelcome or unsolicited speech or conduct based upon sex that creates a hostile work environment or circumstances involving quid pro quo.

Hostile Work Environment: Unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature when such conduct is directed toward an individual because of his or her gender and has the purpose or effect of:

- creating an intimidating, hostile, or offensive work or academic environment, or
- unreasonably interfering with another's work or academic performance

A hostile work environment is one that a reasonable person would objectively find hostile or abusive or one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at all of the circumstances including:

- A. the nature of the alleged hostility
- B. the frequency of the allegedly harassing conduct,
- C. its severity,
- D. whether it is physically threatening or humiliating, and
- E. whether it unreasonably interferes with an employee's work or student's academic performance

Generally, a single sexual joke, offensive epithet, or request for a date does not constitute a hostile work or academic environment; however, being subjected to such jokes, epithets or requests repeatedly may constitute a "hostile environment" under this policy.

Quid Pro Quo: Unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature by one in a position of power or influence constitutes "quid pro quo sexual harassment" when:

- submission by an individual is made either an explicit or implicit term or condition of employment or of academic standing, or
- submission to or rejection of such conduct is used as the basis for academic or employment decisions affecting that employee or student

As defined, "quid pro quo" normally arises in the context of an authority relationship. This relationship may be direct as in the case of a supervisor and subordinate or teacher and student or it may be indirect when the harasser has the power to influence others who have authority over the victim. Same sex sexual harassment is included in the definition of this policy and the offender and victim can be either male or female.

Employee: This generally includes faculty and staff employees who are working on paid appointments by the University. It generally excludes students or temporary employees. For specific information on who is considered an employee, contact the Human Resources Department.

Supervisor: An employee designated by management who exercises major supervisory functions over another employee or employees. These functions include hiring, evaluating, assigning work, and disciplining employees.

Procedures and Responsibilities

Delta State University is committed to providing and promoting an atmosphere in which faculty and staff can realize their maximum potential in the workplace and students can engage fully in the learning process. Toward this end, all members of the university community (including faculty, staff and students) must understand that workplace harassment will not be tolerated, and that they are required to abide by university policy. Workplace harassment violates federal civil rights laws and the university's nondiscrimination policy.

The purpose of this policy includes:

- 1) to serve as notice of the types of behavior which are unacceptable and will not be tolerated by DSU and
- 2) to advise those who feel they have been the object of workplace harassment of the recourses available to them.

It is incumbent upon anyone who feels he or she has been harassed to avail themselves of this policy and procedure.

Engaging in workplace harassment is unacceptable conduct which will not be tolerated. Any employee found to have engaged in workplace harassment will be subject to disciplinary action up to and including termination. Managers and supervisors who know or should have known of workplace harassment and fail to report such behavior, or fail to take immediate, appropriate action, will be subject to disciplinary action up to and including termination.

In determining whether alleged workplace harassing conduct warrants corrective action, all relevant circumstances, including the context in which the conduct occurred, will be considered. Facts will be judged on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular sensitivity or reaction of an individual.

In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or artistic expression are involved. Free speech rights apply in the classroom and in all other education programs and activities of public institutions, and First Amendment rights apply to the speech of students and teachers.

Great care must be taken not to inhibit open discussion, academic debate, and expression of personal opinion, particularly in the classroom. Nonetheless, speech or conduct of a sexual or hostile nature which occurs in the context of educational instruction may exceed the protections of academic freedom and constitute prohibited sexual harassment if it meets the definition of sexual harassment noted below and

- 1) is reasonably regarded as non-professorial speech (i.e., advances a personal interest of the faculty member as opposed to furthering the learning process or legitimate objectives of the course), or
- 2) lacks accepted pedagogical purpose or is not germane to the academic subject matter.

Assurance / Protection Against Retaliation

This policy seeks to encourage students, faculty, and other employees to express freely, responsibly, and in an orderly way opinions and feelings about any problem or complaint of workplace harassment. Retaliation against persons who report or provide information about workplace harassment or behavior that might constitute workplace harassment is also strictly prohibited. Any act of reprisal, including internal interference, coercion, and restraint, by a University employee or by one acting on behalf of the University, violates this policy and will result in appropriate disciplinary action.

DSU also recognizes that false accusations of workplace harassment can have serious effects on innocent persons. If the investigation results in finding that the complainant has acted maliciously or has recklessly made false accusations, the accuser will be subject to appropriate disciplinary actions. Retaliation is a serious violation of this policy and should be reported immediately.

Confidentiality

Delta State University will do everything consistent with enforcement of this policy and with the law to protect the privacy of the individuals involved and to ensure that the complainant and the accused are treated fairly. Information

about individual complaints and their disposition is considered confidential and will be shared only on a “need to know” basis. All reasonable steps will be taken to assure that the complainant and the alleged offender are protected by the highest degree of confidentiality possible. Both parties are advised, however, that once an inquiry or an investigation has begun, anonymity may be impossible.

Prompt Reporting of Allegations

Persons who believe they have been victims of workplace harassment should report the incident(s) immediately to appropriate administrative personnel as set forth below. Delay in reporting makes it more difficult to establish the facts of a case and may contribute to the repetition of offensive behavior.

If a complainant is able and feels safe, he or she should clearly explain to the respondent that the behavior is objectionable and request that it cease. The complainant should do so as soon as possible after the incident occurs. Communication with the respondent may be in person, on the telephone, or in writing. If the behavior does not stop, or if the complainant believes some adverse employment or educational consequences may result from the discussion, he or she may utilize a documented grievance process. There are two modes for resolving complaints, the informal grievance report and the formal grievance procedure:

Informal Report

Informal means are encouraged as the beginning point, but the choice of where to begin normally rests with the complainant. The informal grievance report seeks resolution through discussion and mediation facilitated by the Director of Human Resources and/or the Dean or University Vice President under whose division the complaint falls.

The informal complaint does not involve, at any stage, a "finding" of guilt, nor does it mandate disciplinary action. The focus of the investigation in the informal report is to stop inappropriate behavior, investigate, and facilitate resolutions, if possible.

If a grievance is pursued through this informal report procedure, the complainant must initiate the request. The complaint should be brought as soon as possible after the most recent incident.

The role of the Director of Human Resources and the Dean or Vice President under whose division the complaint falls will be to investigate the complaint, act as a neutral third party (mediator) and facilitate resolution. If the informal report procedure does not resolve the complaint, the complainant may initiate a formal grievance procedure. However, if the mediator(s) believe that the matter is sufficiently grave because it seems to be part of a persistent pattern, because of the nature of the alleged offense, or because the complainant seeks to have a sanction imposed, then the mediator(s) can initiate either a formal procedure or take other appropriate action.

Process

1. The mediator(s) will hold a discussion with the complainant to determine the nature of the complaint and provide the complainant with an explanation of all provisions of the policy.
2. The mediator(s) will meet with the respondent, assist him or her in interpreting the complaint, and request information regarding their position. The mediator(s) will facilitate communication between the parties of their respective positions. If desirable and agreeable to both parties, the mediator(s) may bring together the complainant and respondent and/or others who may be able to contribute to the resolution of the complaint.
3. If a resolution satisfactory to both complainant and respondent is reached, DSU may consider the complaint concluded. DSU may, however, deem further investigation necessary in order to address any disciplinary issues.

If a complaint is resolved informally, no record of the complaint will be entered into either employment files or student records. However, the mediator(s) will, in the form of a confidential file memorandum, record the fact of the

complaint and the resolution achieved. A copy of the memorandum will be forwarded to the Human Resources Department where it will be retained in confidential files for a period of three years.

Formal Complaint

Any individual who believes that he or she has been the object of workplace harassment may bring a formal complaint. The following sections identify appropriate reporting channels that students and employees should contact regarding workplace harassment.

Student Complaints

1. If the formal complaint is against a faculty member, graduate assistant, or staff member in an academic or administrative department, it should be directed to the Vice President for Student Affairs or the dean of the college or school in which the alleged offender is employed. This also applies to students participating in internships, field placements, student teaching, and off campus academic settings.
2. If the formal complaint is against a student, not acting in an instructional or other employment capacity, it should be directed to the Vice President for Student Affairs.
3. Students who believe for any reason that they cannot effectively submit their formal complaint through the above channels can direct their complaint to either the Vice President of Academic Affairs or the Director of Human Resources.

Faculty and Staff Complaints

1. If the formal complaint is against a faculty member, other instructional personnel, or staff employed in a college or school, it should be directed to the Dean of the college or school in which he/she is employed.
2. If the formal complaint is against a staff member in a department other than a college or school, it should be directed to the Director of Human Resources.
3. If the formal complaint is against a student, not acting in an instructional or other employment capacity, it should be directed to the Vice President for Student Affairs.
4. Faculty and Staff who believe for any reason they cannot effectively submit their formal complaint through the above channels can direct their complaint to either the Vice President of Academic Affairs or the Director of Human Resources.

Faculty, staff, and students who are victims of workplace assault or harassment may seek advice and referral from the University's Counseling Services. This office, which keeps all information confidential, neither receives complaints nor conducts investigations.

Filing the Formal Complaint

The process is initiated when a written, signed complaint is submitted. When a written complaint is received, it will be treated as a formal complaint unless it specifically states that complainant desires to use the informal process. (However, any apparently legitimate complaint, regardless of its form, will be investigated and resolved to the extent deemed appropriate under the circumstances). The signed complaint should include the names of the individuals involved, a description of what occurred, and the time(s), place(s), and date(s) of the event(s).

Notice to Parties

After a formal complaint has been received, the investigator(s) will promptly notify all parties in writing of: the charge, including the names of all parties; DSU's policy and procedure on workplace harassment, and the name(s) of the individual(s) who will conduct the formal investigation on behalf of DSU.

Formal Investigation

The investigator(s) will ask the respondent to submit a detailed statement describing what occurred at the time of the alleged incident and listing the names of any witnesses with a brief description of what each may have seen or been told. The investigator(s) will then furnish each party with a copy of the other party's statement. Within five (5) working days after receipt of the statement, each party will prepare and submit a detailed written response to the other party's statement.

The investigator(s) may conduct interviews with witnesses. If possible, statements of witnesses will be in writing and signed; however, the investigator(s) may prepare written summaries of oral statements made by the witnesses. The investigator(s) must inform each witness that his or her statement will be furnished to each of the respective parties. When the investigation is complete, the investigator(s) will prepare a written preliminary report. The report should describe the evidence in detail, have attached summaries, and other relevant documents, and contain recommendations. The complainant and respondent will have two (2) working days in which to share their response to this report with the investigator(s). The investigator(s) will consider responses and prepare a final report to be sent to the complainant and respondent.

Appeal Process / Final Decision

Either party may respond to the final report of the investigator(s) by written letter to the President. This letter should contain arguments as to why the recommendation(s) of the investigator(s) should be modified, accepted, or rejected. The President shall consider both the report of the investigator(s) and the letters of the respective parties. The decision of the President is final. The complainant and the respondent will be notified of the outcome of the investigation.

False Allegations

DSU recognizes that the question of whether a particular course of conduct constitutes workplace harassment requires a factual determination. DSU also recognizes that false accusations of workplace harassment can have serious effects on innocent persons. If the investigation results in finding that the complainant has acted maliciously or has recklessly made false accusations, the accuser will be subject to appropriate disciplinary actions.

Record Keeping

All written records generated through the use of the formal complaint procedure shall be kept for a period of three years in the Human Resources Department.

Responsibilities of Delta State University Supervision

All members of the university community have a general responsibility to contribute in a positive way to a university environment that is free of workplace harassment. Supervisory personnel, however, have additional responsibilities. Supervisory personnel are not only responsible for educating and sensitizing employees in their units about workplace harassment issues, but they are also directed to take all appropriate steps to prevent and stop workplace harassment in their areas of responsibility. Supervisory personnel who are contacted by an individual seeking to file a complaint about workplace harassment in their department or area of responsibility shall assist the complainant in contacting the appropriate personnel.

Rights and Responsibilities of the Respondent

1. The right to have an opportunity to fully respond to the complaint.
2. The right to have the complaint investigated and resolved in a timely manner.
3. The responsibility not to take any actions against the complainant that could be considered retaliation. There should be no contact between the supervisor and complainant during the course of action.

4. Investigators will fully inform the individual on the status of the investigation.
5. The responsibility of providing as much information as possible as requested by the investigator(s) in order to provide a fair and just resolution to the complaint.
5. The nature of the complaint should not be disclosed to persons not involved.

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