

D. Policy on Sexual Harassment

1. Sexual Harassment Policy Statement

Southern Illinois University is committed to a policy of providing equal employment and educational opportunities. In particular, Southern Illinois University is committed to maintaining a community in which students, faculty, and staff can work and learn together in an atmosphere free of all forms of discrimination, including sexual harassment. Sexual harassment violates the dignity of the individual and the integrity of the University as an institution of higher learning, and thus, sexual harassment in any form will not be tolerated at Southern Illinois University. This policy applies to all employees, students, contractors, and visitors of Southern Illinois University.

This policy prohibits sexual harassment, retaliation related to sexual harassment claims, knowingly reporting false sexual harassment complaints and knowingly providing false information during the investigation of a sexual harassment complaint. All University employees are responsible for taking reasonable and necessary action to prevent sexual harassment, and all members of the University community are expected to contribute to an environment free of sexual harassment, and are encouraged to report promptly (pursuant to campus procedures) any conduct that could be in violation of this policy. Each SIU campus shall adopt specific procedures for reporting, investigating and resolving harassment claims.

This policy shall not abridge any individual's speech and due process rights under the First and Fourteenth Amendments; nor shall it abridge principles or rights of academic freedom or the University's educational mission. Prohibited sexual harassment and discrimination are not expression protected as a matter of academic freedom.

2. Definition of Sexual Harassment

Sexual Harassment in employment means any unwelcome sexual advances, requests for sexual favors, or any conduct of a sexual nature, when:

- a. Submissions to or toleration of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment (this is a type of quid pro quo - meaning "this for that" - sexual harassment); or
- b. Submission to or rejection of such conduct by an individual is used as a basis (or threatened to be used as a basis) for employment decisions or assessments affecting such individual (this is a type of quid pro quo - meaning "this for that" - sexual harassment); or
- c. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment (this is a type of hostile environment sexual harassment).

Sexual Harassment in higher education means any unwelcome sexual advances, requests for sexual favors, or any conduct of a sexual nature, when:

- a. Submission to or toleration of such conduct is made, either explicitly or implicitly, a term or condition affecting the student's participation in or benefit from any of the academic, educational, extra-curricular, athletic, or other programs of the University (this is a type of quid pro quo - meaning "this for that" - sexual harassment); or
- b. Such conduct has the purpose or effect of substantially interfering with a student's academic performance or creating an intimidating, hostile, or offensive academic environment (this is a type of hostile environment sexual harassment).

Hostile environment sexual harassment occurs when unwelcome conduct of a sexual nature is so severe, persistent, or pervasive that it affects an employee's work performance, limits a student's ability to participate in or benefit from a University program or activity, or creates an intimidating, threatening or abusive working or academic environment. Sexual harassment generally includes something beyond the mere expression or display of views, words, symbols, images, or thoughts that some person finds offensive.

Totality of the Circumstances: In determining whether alleged conduct constitutes sexual harassment, the record as a whole and the totality of the circumstances will be considered. Circumstances may include the frequency of the conduct; its severity; whether it was physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interfered with the alleged victim's work performance or ability to participate in or benefit from the University's programs. The objective severity of the conduct will be judged from the perspective of a reasonable person in the position of the alleged victim and not on the intent of the person engaging in the conduct.

Examples of behavior that may be considered sexual harassment include, but are not limited to:

- a. Physical sexual assault or coerced sexual intercourse;
- b. Unwelcome physical contact, such as touching of a person's body, hair or clothing, or hugging, patting or pinching;
- c. Direct or implied threats that submission to sexual advances will or could be a condition of employment, work status, promotion, performance evaluation, grades, letters of recommendation, or other work or educational benefit (quid pro quo);
- d. Severe or persistent unwelcome verbal, physical or other expressive conduct that is offensive or humiliating in a sexual way. Such conduct may include comments of a sexual nature and/or sexually explicit statements, questions, jokes, anecdotes, gestures, or facial expressions that would offend or humiliate a reasonable person in the circumstances of the individual experiencing this conduct. Conduct need not be in person but can be any form of communication including but not limited to written, telephonic, or electronic communication such as electronic mail and/or comments sent via the internet.
- e. Exhibition or use of sexually explicit materials in the workplace or learning environment that have no relationship to the curriculum or research or the mission of the University and substantially interfere with an employee's work performance or a student's ability to benefit from University programs. Such materials may be in the form of music, documents, objects, photographs, film or electronically generated materials.
- f. Any unwanted, inappropriate behavior that is targeted to a person or person(s) because of their gender or sexual orientation, for example repeatedly telling women (or men) that they are not capable of doing a certain kind of work.
- g. Amorous or sexual relationships between a faculty member and a student under his or her academic supervision or between a supervisor and an employee under his or her supervision, where the direct power differential compromises the subordinate's free choice. (Even consenting relationships may lead to an actual or perceived conflict of interest or other unethical conduct. See policies on consenting relationships.)

Retaliation is defined as any act of reprisal, including negative or otherwise unwarranted treatment, related to the reporting of, or participation in a complaint of sexual harassment. Retaliation may include, but is not limited to:

- a. Taking negative tangible employment actions against a person;
- b. Taking actions that substantially interfere with or have a chilling effect on the employee's or student's ability to participate fully in and benefit from the work or educational environment;
- c. Failing to provide assistance or instruction that would otherwise be provided;
- d. Failing to fairly and/or objectively evaluate an employee's or student's performance;
- e. Failing to record an appropriately earned grade for a student; or
- f. Otherwise sabotaging an employee's or student's performance or evaluation.

It is a violation of this policy to engage in any retaliatory acts against an employee or student who reports an alleged incident of sexual harassment, or any employee or student who testifies, assists, or participates in a proceeding, investigation, or hearing relating to an allegation or complaint of sexual harassment.

3. Duty to File in Good Faith/ False Reports

Any person who reports alleged sexual harassment or provides information during the investigation of a complaint is presumed to have participated in the investigatory process in good faith. It is a

violation of this policy for persons to knowingly make a false sexual harassment complaint or knowingly provide false information during the investigation of a complaint.

4. Implementing Procedures

This Sexual Harassment Policy is to be implemented throughout the University, and procedures consistent with this policy for such implementation are to be established on each campus. The President is authorized to delegate to each Chancellor, the authority to develop procedures for the implementation of this Sexual Harassment Policy.

Attribution

Sexual harassment policies are governed by state and federal laws and statutes. As such, policies at many institutions can look very similar to that proposed by SIUC. This policy was developed in accordance with the Illinois Human Rights Act (775 ILCS 5/2 and 775 ILCS 5/5 and 775 ILCS 5/5a), the Equal Employment Opportunity Commission Regulations (29 C.F.R § 1604.11); and guidance issued by the United States Department of Education Office of Civil Rights. Additionally, policies from several other universities were reviewed including: University of Massachusetts Amherst, University of Michigan, University of North Carolina at Chapel Hill, Michigan State University, University of North Carolina At Greensboro, University of Maine, Indiana University, Indiana University – Purdue University at Indianapolis, Purdue University, University of Southern Indiana – Evansville, New York University, University of Illinois, University of Massachusetts – Boston, City University of New York, Northwestern University, Illinois State University, University of Colorado System, Youngstown State University, Princeton University, Michigan State University, and University of Florida – Gainesville.

(5/7/09)