



**ILLINOIS STATE
UNIVERSITY**
Illinois' first public university

University
Policy & Procedures

1.2 Anti-Harassment and Non-Discrimination Policy

I. Policy

Illinois State University fosters a campus environment that recognizes individual and cultural differences and is strongly committed to the ethical and legal principle that each member of the University community enjoys the constitutional right to free speech. The right of free expression and the open exchange of ideas stimulates debate, promotes creativity, and is essential to a rich learning environment.

As members of the University community, students, faculty, administrators, and staff have a responsibility to respect others and show tolerance for opinions that differ from their own. The value of free expression, however, may be undermined by certain acts of harassment and discrimination that may result in the deterioration of a quality learning, work, or campus community environment and therefore will not be tolerated.

Any act of harassment and/or discrimination based on race, color, ancestry, national origin, religion, pregnancy, sexual orientation, order of protection, gender identity and expression, age, marital status, disability, genetic information, unfavorable military discharge, status as a veteran, or sex (including sexual harassment, sexual assault, domestic violence, dating violence, and stalking) is a violation of this policy and the law and will not be tolerated.

Retaliation against any person making an allegation of harassment, discrimination, or exercising his or her legal right to have the allegation investigated is also prohibited. Allegations of retaliation initiated by an individual participating in the complaint investigation process will be investigated as a separate and distinct violation of this policy.

A violation of the Anti-Harassment and Non-Discrimination Policy can result in disciplinary action up to and including expulsion for students and termination of employment for employees.

Please note nothing in this policy prohibits an instructor, in the context of conducting his/her professional responsibility, from engaging in the appropriate admonition or correction of a student in the interest of maintaining order, upholding standards, stimulating thought or promoting competence. Except as otherwise prohibited by law, such action is, by definition, not a violation of this policy. Likewise, nothing in this policy precludes the University's inherent authority to plan, direct, and evaluate the activities of University personnel in accordance with sound management principles and directives, including communicating to, training of, and disciplining employees.

II. Prevention and Training

The University is committed to:

1. Providing educational programs which promote awareness of anti-harassment and non-discrimination, sexual assault, dating/domestic violence, and/or stalking and target prevention of such acts.
2. Informing students and employees of available services both within the University and surrounding community and facilitating their decision-making in regards to recovery needs.
3. Encouraging and assisting in the reporting of discrimination, harassment, sexual assault, dating/domestic violence, and/or stalking to the appropriate law enforcement authority and filing a complaint with the Office of Equal Opportunity and Access (OEOA) for employee complaints or Title IX for student complaints.
4. Timely investigations of allegations of policy violations and misconduct including violations of the Code of Student Conduct and/or the Equal Opportunity / Anti-Harassment and Non-Discrimination Policy.
5. Reviewing, upon request, available options for interim actions designed to protect students (e.g. no contact order, modifying academic and/or living environments and implementing modifications if such modifications are reasonably available)
6. Ensuring that individuals conducting investigations or making any decisions regarding violations of this policy shall receive annual training on related issues including but not limited to sexual harassment, domestic violence, dating violence, sexual assault, and stalking.
7. For sexual harassment allegations reported pursuant to Title IX, individuals tasked with investigating and making determinations in those matters will be specifically trained on the following:
 1. The definition of sexual harassment
 2. The scope of the University's education program or activity
 3. How to conduct an investigation and grievance process including hearings, appeals and informal resolutions
 4. Technology to be used at a live hearing
 5. Issues related to relevance of questions and evidence and how to respond to questions about a Complainant's sexual predisposition or prior sexual behavior
 6. Investigators will be trained on issues of relevance to create an investigative report that fairly summarizes relevant evidence
8. Annual training for employees regarding mandated reporting, crime reporting, and complaint procedures. For more information, please go to the website at <http://equalopportunity.illinoisstate.edu/crime> .
9. Annual training and education for students regarding anti-harassment and non-discrimination, sexual assault, domestic violence, dating violence, and/or stalking and the relevant policies, procedure, support and resources. For more information, please go to the website at <http://titleix.illinoisstate.edu/>

III. Reporting and Complaint Procedures

For reporting and complaint procedures related to filing a complaint against an employee or student based on any protected class that is not sexual harassment, sexual assault/misconduct, domestic violence, dating violence, or stalking, please see [University Procedure 1.2.1](#).

For reporting and complaint procedures related to filing a complaint against a student based on sexual harassment, sexual assault/misconduct, domestic violence, dating violence, or stalking, please see [University Procedure 1.2.2](#).

For reporting and complaint procedures related to filing a complaint against an employee based on sexual harassment, sexual assault/misconduct, domestic violence, dating violence, or stalking please see [University Procedure 1.2.3](#).

For reporting and complaint procedures related to filing a complaint against a University Laboratory School student based on sexual harassment, sexual assault/misconduct, domestic violence, dating violence, or stalking, please see [University Procedure 1.2.4](#).

IV. DEFINITIONS

A. Race, Color, Ancestry, and National Origin Harassment and/or Discrimination

No Illinois State University student, employee, or faculty member shall be excluded from participating in or denied the benefits of any University program or activity on the basis of their race, color, ancestry, or national origin. Illinois State University will not tolerate harassing behavior related to one's race, color, ancestry, and national origin that is sufficiently severe or pervasive such that it interferes with an individual's participation in a University program or activity or unreasonably interferes with an individual's work or academic performance by creating an intimidating, hostile, or offensive work or learning environment. Whether the harassing conduct is considered severe or pervasive depends upon the context, nature, scope, frequency, duration, and location(s) in which the behavior occurred, as well as, the identity, number, and relationships of the persons involved.

B. Religious Harassment and/or Discrimination

No Illinois State University student, employee, or faculty member shall be excluded from participating in or denied the benefits of any University program or activity on the basis of religion. Persons who do not have sincerely held religious beliefs are also protected from religious discrimination. Illinois State University will not tolerate harassing behavior related to religion that is sufficiently severe or pervasive such that it interferes with an individual's participation in a University program or activity or unreasonably interferes with an individual's work or academic performance by creating an intimidating, hostile, or offensive work or learning environment. Whether the harassing conduct is considered severe or pervasive depends upon the context, nature, scope, frequency, duration, and location(s) in which the behavior occurred, as well as, the identity, number, and relationships of the persons involved.

C. Pregnancy Harassment and/or Discrimination

No Illinois State University student, employee, or faculty member shall be excluded from participating in or denied the benefits of any University program or activity on the basis of pregnancy and childbirth. Illinois State University will not tolerate harassing behavior related to pregnancy and childbirth that is sufficiently severe or pervasive such that it interferes with an individual's participation in a University program or activity or unreasonably interferes with an individual's work or academic performance by creating an intimidating, hostile, or offensive work or learning environment. Whether the harassing conduct is considered severe or pervasive depends upon the context, nature, scope, frequency, duration, and location(s) in which the behavior occurred, as well as, the identity, number, and relationships of the persons involved.

D. Sexual Orientation Harassment and/or Discrimination

No Illinois State University student, employee, or faculty member shall be excluded from participating in or denied the benefits of any University program or activity on the basis of their sexual orientation. Illinois State University will not tolerate harassing behavior related to one's sexual orientation that is sufficiently severe or pervasive such that it interferes with an individual's participation in a University program or activity or unreasonably interferes with an individual's work or academic performance by creating an intimidating, hostile, or offensive work or learning environment. Whether the harassing conduct is considered severe or pervasive depends upon the context, nature, scope, frequency, duration, and location(s) in which the behavior occurred, as well as, the identity, number, and relationships of the persons involved.

E. Order of Protection Status Harassment and/or Discrimination

Illinois State University shall make best efforts to comply with the terms of any lawfully issued Order of Protection. Any student or employee with an Order of Protection should notify the Illinois State University Chief of Police. No Illinois State University student, employee, or faculty member shall be excluded from participating in or denied the benefits of any University program or activity on the basis their order of protection status. Illinois State University will not tolerate harassing behavior related to one's order of protection status that is sufficiently severe or pervasive such that it interferes with an individual's participation in a University program or activity or unreasonably interferes with an individual's work or academic performance by creating an intimidating, hostile, or offensive work or learning environment. Whether the harassing conduct is considered severe or pervasive depends upon the context, nature, scope, frequency, duration, and location(s) in which the behavior occurred, as well as, the identity, number, and relationships of the persons involved.

Order of protection status refers to a person protected under an order of protection issued pursuant to the Illinois Domestic Violence Act of 1986 or an order of protection issued by a court of another state.

F. Gender Identity & Expression Harassment and/or Discrimination

No Illinois State University student, employee, or faculty member shall be excluded from participating in or denied the benefits of any University program or activity on the basis of their gender identity or gender expression. Illinois State University will not tolerate harassing behavior related to one's gender identity or gender expression that is sufficiently severe or pervasive such that it interferes with an individual's participation in a University program or activity or unreasonably interferes with an individual's work or academic performance by creating an intimidating, hostile, or offensive work or learning environment. Whether the harassing conduct is considered severe or pervasive depends upon the context, nature, scope, frequency, duration, and location(s) in which the behavior occurred, as well as, the identity, number, and relationships of the persons involved.

"Gender identity" refers to a person's knowledge of their gender. A person may identify as a gender that does or does not appear to correspond to the sex assigned to that person at birth, or the person may not identify as either female or male.

A person's self-presentation of themselves as female, male, androgynous, or as another gender evidenced by their physical appearance, dress, speech, or other expression is referred to as "gender expression."

G. Age Harassment and/or Discrimination

No Illinois State University student, employee, or faculty member shall be excluded from participating in or denied the benefits of any University program or activity on the basis of age. Illinois State University will not tolerate harassing behavior related to age that is sufficiently severe or pervasive such that it interferes with an individual's participation in a University program or activity or unreasonably interferes with an individual's work or academic performance by creating an intimidating, hostile, or offensive work or learning environment. Whether the harassing conduct is considered severe or pervasive depends upon the context, nature, scope, frequency, duration, and location(s) in which the behavior occurred, as well as, the identity, number, and relationships of the persons involved.

H. Marital Status Harassment and/or Discrimination

No Illinois State University student, employee, or faculty member shall be excluded from participating in or denied the benefits of any University program or activity on the basis of their marital status. Illinois State University will not tolerate harassing behavior related to one's marital status that is sufficiently severe or pervasive such that it interferes with an individual's participation in a University program or activity or unreasonably interferes with an individual's work or academic performance by creating an intimidating, hostile, or offensive work or learning environment. Whether the harassing conduct is considered severe or pervasive depends upon the context, nature, scope, frequency, duration, and location(s) in which the behavior occurred, as well as, the identity, number, and relationships of the persons involved.

I. Disability Harassment and/or Discrimination

No Illinois State University student, employee, or faculty member shall be excluded from participating in or denied the benefits of any University program or activity on the basis of his or her disability. Illinois State University will not tolerate harassing behavior related to one's disability that is sufficiently severe or pervasive such that it interferes with an individual's participation in a University program or activity or unreasonably interferes with an individual's work or academic performance by creating an intimidating, hostile, or offensive work or learning environment. Whether the harassing conduct is considered severe or pervasive depends upon the context, nature, scope, frequency, duration, and location(s) in which the behavior occurred, as well as, the identity, number, and relationships of the persons involved.

Under applicable state and federal law, an individual with a disability is a person who:

1. Has a physical or mental impairment that substantially limits one or more major life activities;
2. Has a record of such an impairment; or
3. Is regarded as having such an impairment.

The determination of whether an employee qualifies as an individual with a disability under applicable state and federal law, is made on a case-by-case basis by the Office of Equal Opportunity and Access. The determination of whether a student qualifies as an individual with a disability under applicable state and federal law is made on a case-by-case basis by [Student Access and Accommodations](#).

J. Genetic Information Harassment and/or Discrimination

No Illinois State University student, employee, or faculty member shall be excluded from participating in or denied the benefits of any University program or activity on the basis of their genetic information. Illinois State University will not tolerate harassing behavior related to one's genetic information that is sufficiently severe or pervasive such that it interferes with an individual's participation in a University program or activity or unreasonably interferes with an individual's work or academic performance by creating an intimidating, hostile, or offensive work or learning environment. Whether the harassing conduct is considered severe or pervasive depends upon the context, nature, scope, frequency, duration, and location(s) in which the behavior occurred, as well as, the identity, number, and relationships of the persons involved.

K. Military Status Harassment and/or Discrimination

No Illinois State University student, employee, or faculty member shall be excluded from participating in or denied the benefits of any University program or activity on the basis of his or her military status or unfavorable military discharge. Illinois State University will not tolerate harassing behavior related to one's military status or unfavorable military discharge that is sufficiently severe or pervasive such that it interferes with an individual's participation in a University program or activity or unreasonably interferes with an individual's work or academic performance by creating an intimidating, hostile, or offensive work or learning environment. Whether the harassing conduct is considered severe or pervasive depends upon the context, nature, scope, frequency, duration, and location(s) in which the behavior occurred, as well as, the identity, number, and relationships of the persons involved.

"Military status" means a person's status on any full-time training or duty, no matter how described under federal or State law, for which a service member is ordered to report by the President, Governor of a state, commonwealth, or territory of the United States, or other appropriate military authority.

The term "unfavorable military discharge" refers to discharges from the Armed Forces of the United States, their Reserve components or any National Guard or Naval Militia which are classified as RE-3 or the equivalent thereof, but does not include those characterized as RE-4 or "Dishonorable".

L. Veteran Status Harassment and/or Discrimination

No Illinois State University student, employee, or faculty member shall be excluded from participating in or denied the benefits of any University program or activity on the basis of their veteran status. Illinois State University will not tolerate harassing behavior related to one's veteran status that is sufficiently severe or pervasive that it interferes with an individual's participation in a University program or activity or unreasonably interferes with an individual's work or academic performance by creating an intimidating, hostile, or offensive work or learning environment.

M. Sex Discrimination

No Illinois State University student, employee, or faculty member shall be excluded from participating in or denied the benefits of any University program or activity on the basis of their sex. Illinois State University will not tolerate discrimination related to one's sex.

N. Sexual Harassment - Employment

It is the policy of the University to maintain a work environment free of sexual harassment for students, faculty, and staff. Sexual harassment is contrary to the standards of the University community and is a barrier to fulfilling the University's scholarly, research, educational, and service missions.

1. Quid Pro Quo Sexual Harassment

Quid Pro Quo sexual harassment occurs when it is stated or implied that an academic or employment decision about a student or employee depends upon whether the student or employee submits to the conduct of a sexual nature. Quid pro quo sexual harassment also occurs when it is stated or implied that a student or employee must submit to conduct of a sexual nature in order to participate in a University program or activity.

2. Hostile Work Environment Sexual Harassment

In compliance with federal and state law, the University will utilize two standard and procedures for investigating allegations of hostile work environment due to sexual harassment. At any point, the University reserves the right to refer a matter to the other procedure if deemed appropriate.

(a) A sexually harassing hostile environment occurs, pursuant to Title IX, when any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive negatively affects the employee's ability to participate in or benefit from a University program or activity; or, any instance of sexual assault as defined in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), and dating violence, domestic violence or stalking as defined in the Violence Against Women Act (VAWA). Formal complaints under this definition will be reviewed pursuant to University Procedure 1.2.3; or

(b) A sexually harassing hostile environment may also occur when uninvited or unwelcome conduct of a sexual nature creates an intimidating, threatening or abusive working environment that is so severe or pervasive that it negatively affects the employee's ability to participate in or benefit from a University program or activity. Complaints under this definition will be reviewed pursuant to University Procedure 1.2.1. The Office of Equal Opportunity and Access will reserve the right to refer matters that may meet the definition above under the Title IX definition to that process at any point during an investigation.

O. Hostile Educational Environment Sexual Harassment

It is the policy of the University to maintain an educational environment free of sexual harassment for students under Title IX. Sexual harassment is contrary to the standards of the University community and a barrier to fulfilling the University's scholarly, research, educational, and service missions.

Sexual harassment under Title IX is defined as the following:

1. An employee¹ of the University Laboratory School or Illinois State University conditions the provision of aid, benefit, or service of the school on an individual's participation in unwelcome sexual conduct; or
2. Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal educational access; or
3. Any instance of sexual assault as defined in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), and dating violence, domestic violence or stalking as defined in the Violence Against Women Act (VAWA)².

For purposes of this policy, equal educational access applies to all persons admitted for enrollment at or through the University or University Laboratory Schools, both full-time and part-time, pursuing undergraduate or graduate degrees as well as certificate and other educational programs. Individuals are still considered students for the purpose of this policy between academic sessions, until such time that a student's degree has been awarded.

The University has jurisdiction over a Respondent when the Respondent is enrolled as a student of the University and whenever the conduct that could constitute sexual harassment occurs in connection with a University-related program or activity.

Federal law defines "program or activity" as locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context of the harassment. This also includes any building owned or controlled by a recognized student organization, such as fraternities and sororities.

Any student or their parents/guardians who feel they have experienced harassment and/or discrimination on the basis of sex (including sexual harassment, sexual assault, domestic violence, dating violence, or stalking) can report the alleged conduct to the University or if enrolled as a student at the University Laboratory School, to any school official who will fulfill necessary reporting obligations. Third parties that have knowledge of possible sexual harassment of others and are not mandated to report, are still encouraged to report to the same sources. Once the University has received information related to a potential policy violation, written notice will be sent promptly to the Complainant outlining the availability of supportive measures along with information on how to file a formal complaint to initiate an OEOA investigation.

Dismissal of Formal Complaint*Mandatory Dismissal*

If the conduct alleged in the formal complaint would not constitute sexual harassment, as defined above, even if proved, did not occur in the recipient's education program or activity, or did not occur against a person in the United States, then the University must dismiss the formal complaint with regard to that conduct for the purposes of sexual harassment as defined under federal law.

Discretionary Dismissal

The University may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a Complainant notifies the Title IX Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegation therein; the Respondent is no longer enrolled or employed by the University; or specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal required or permitted under this section, the University will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties. In the event a formal complaint is dismissed on a discretionary basis, both parties may appeal the decision. Such a dismissal does not preclude the University from proceeding with action under Policy 1.2(P). Sexual Misconduct/Violence, Domestic Violence, Dating Violence, and Stalking, and/or additional provisions from the Code of Student Conduct.

P. Sexual Misconduct/Violence, Domestic Violence, Dating Violence, and Stalking

a. Sexual Misconduct/Violence

Engaging in any act that is sexual in nature and which is committed without the full and informed consent of all persons involved. Examples of sexual assault/misconduct include, but are not limited to: any penetration of the mouth, vagina, or anus with any body part or other object; contact with a person's breasts, buttocks, groin, or genitals; touching another person with one's own breasts, buttocks, groin, or genitals; any other intentional bodily contact of a sexual nature, or; exposing one's intimate body parts to another person or persons.

For purposes of this section, informed consent must be freely and actively given through mutually understandable terms or actions. A person is deemed incapable of giving consent when that person is not of an age to legally give consent (i.e. juvenile, minor), mentally disabled, mentally incapacitated, physically helpless, incapacitated through the use of alcohol and/or drugs to the point of being unable to make an informed and rational decision, unconscious, or asleep. Informed consent cannot be obtained through physical force, compelling threats, intimidating behavior, or coercion. Consent cannot be derived based on: a lack of verbal or physical resistance, previous sexual relations between the same parties, or through the manner in which someone chooses to dress. A person always retains the right to revoke consent at any time during a sexual act. Attending an artistic or educational event or a class in which nudity occurs and for which advanced notice of nudity has been provided qualifies as informed consent.

b. Sexual Exploitation

Engaging in any action that results in one or more persons taking nonconsensual or abusive sexual advantage of another person or persons. Examples of such behavior include, but are not limited to: invasion of sexual privacy; recording or broadcasting sexual activity, including redistribution of pictures, video, or audio; engaging in voyeurism; facilitating or allowing voyeurism without the consent of all parties; knowingly exposing another to a sexually transmitted disease; inducing another person or persons to commit an inappropriate sexual act, or; inducing incapacitation in another person with the intent to engage in sexual conduct, regardless of whether prohibited sexual conduct actually occurs.

c. Dating violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of relationship, the type of the relationship, and the frequency of the interaction between the persons involved in the relationship.

e. Domestic violence

Violence committed by:

- i. a current or former spouse or intimate partner of the alleged victim;
- ii. a person with whom the alleged victim shares a child in common;
- iii. a person who is cohabitating with, or has cohabitated with, the alleged victim as a spouse or intimate partner;
- iv. a person similarly situated to a spouse of the alleged victim under the domestic or family violence laws of the State of Illinois; or
- v. any other person against an adult or youth alleged victim who is protected from that person's acts under the domestic or family violence laws of the State of Illinois.

e. Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for the person's safety or the safety of others; or (ii) suffer substantial emotional distress.

For the purposes of this definition (i) course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property. (ii) Substantial emotional distress means significant mental suffering or anguish that may, but may not necessarily, require medical or other professional treatment or counseling.

Q. Retaliation

The University will not tolerate retaliation against students, employees, or faculty members who exercise their rights by filing a complaint with or participating in a protected investigation. Any action, or attempted action, directly or indirectly, against any person(s), who, in good faith, reports or discloses a violation of this policy, files a complaint, and/or otherwise participates under this policy. Retaliation includes, but is not limited to harassment, discrimination, threats, or negative impact on employment and/or academic progress. Actions are considered retaliatory if they have a materially adverse effect on the working, academic, or living environment of a person; or if they hinder or prevent the person from effectively engaging in University activities and programs. Any person or group within the scope of this policy who engages in retaliation is subject to a separate charge of retaliation.

Footer

1. Complaints under this definition will be reviewed pursuant to University Procedure 1.2.1. or 1.2.4.

2. For the purposes of this policy, alleged instances of sexual assault, dating violence, domestic violence, and stalking are not evaluated for severity, offensiveness or denial of equal education or activity access as a one-time occurrence can be sufficiently serious to deprive a person of equal education access.

Initiating body: Office of Equal Opportunity and Access

Contact: Director of Equal Opportunity and Access (309-438-3383)

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1.2 Grievance Procedures - Filing a Charge of Harassment / Discrimination | Policy | Illinois State University

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