

DRAFT
SOUTHERN ILLINOIS UNIVERSITY
BOARD OF TRUSTEES

SEXUAL HARASSMENT POLICY

I. Policy Statement

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 harassment, including sexual harassment, exploitation, intimidation or retaliation. Such actions violate the dignity of the individual and the integrity of the University as an institution of higher learning. The University will take the steps necessary to ensure an environment free from all forms of harassment including sexual harassment and retaliation.

Disciplinary action for violation of this Sexual Harassment Policy or campus harassment policies may include, but is not limited to, oral or written warnings or reprimands, mandatory training, demotion, transfer, suspension, or dismissal for cause.

It is the policy of this University that sexual harassment in any form will not be tolerated. All University employees are responsible for taking reasonable and necessary action to prevent sexual harassment, and all members of the University community are expected and encouraged to contribute to an environment free of harassment, and to report promptly any conduct that could be in violation of this Policy.

This Policy:

1. Prohibits sexual harassment, related retaliation, certain types of alleged consensual relationships, the display of non-curriculum related sexually explicit materials, and knowingly making a false sexual harassment complaint or providing false information;
2. Provides definitions for both sexual harassment and related retaliation; and
3. Requires each campus to develop procedures to implement this Policy.

II. Policy Violations

A. Applicable Statutes

Violations of this Policy may also constitute violations of Title VII of the Civil Rights Act of 1964 as amended, Title IX of the Education Amendments of 1972, and the Illinois Human Rights Act. Violation of this Policy may subject the University and the harasser to legal liability under these statutes.

B. Consensual Relationships

This Policy also prohibits consensual sexual or dating relationships where there is a material and direct power difference between the parties involved. Examples of such situations include relationships between:

- A faculty member and a current student or recruit of that faculty member;
- A coach and a current athlete or recruit;
- An academic advisor and an advisee; or
- Any supervisory employee and his or her subordinate.

Relationships with this power disparity may cast doubt on the objectivity of the parties, and may result in claims of sexual harassment and questions regarding the voluntariness of the relationship.

C. Sexually Explicit Materials

Sexually explicit materials in the workplace or learning environment that have no relationship to the curriculum or the job description can contribute to a sexually harassing environment for faculty, staff, other employees and students. A complaint of sexual harassment may include allegations of sexually explicit materials. Such materials may be in the form of music, documents, objects, photographs, film or computer generated materials.

D. False Reports

Also, it is a violation of this Policy for persons including employees, students, or contractors, to knowingly make a false sexual harassment complaint or provide false information during the investigation of a complaint. If a complaint has been made in bad faith, disciplinary action may be taken against the person bringing the complaint or providing false information. Disciplinary action may include, but is not limited to, oral or written warnings or reprimands, mandatory training, demotions, transfer, suspension, or dismissal for cause.

E. Protection of First Amendment Rights

This Policy shall not abridge any individual's rights under the First Amendment, academic freedom, or the University's educational mission. Harassment does not include verbal expressions or written material that is relevant and appropriately related to course subject matter or curriculum.

III. Definitions

Sexual harassment is defined as unsolicited, offensive behavior that inappropriately asserts sexuality over status as a student or an employee, unwelcome sexual advances, requests for sexual favors, and other verbal or expressive behaviors, or physical conduct of a sexual nature, when:

1. Submission to or toleration of such conduct is made, either explicitly or implicitly, a term or condition of employment, or academic admission or advancement, or participation in other University activities;
2. Submission to or rejection of such conduct is used as a basis (or threatened to be used as a basis) for employment or for academic decisions or assessments affecting the individual's status as an employee or student; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's status as a student or employee or creates an intimidating, hostile, or offensive work or educational environment.

The fact that someone did not intend to sexually harass another individual is not a defense to a complaint of sexual harassment. In most cases, it is the characteristics of the behavior and how that behavior is perceived by the victim that determines whether sexual harassment has occurred. For conduct to be considered sexual harassment, it need not be direct or explicit. Sexual harassment can be implied from the conduct, circumstances, and/or the relationship of the individuals involved.

Sexual harassment may involve the behavior of a person of either sex toward a person of the opposite or same sex. Sexual harassment in violation of this Policy can occur on or off campus. The harasser may be a member of the University community, or an outside individual involved in University business, or visiting campus for another purpose.

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

- Physical sexual assault;
- Direct or implied threats that submission to sexual advances will or could be a condition of employment, work status, promotion, grades, or letters of recommendation;
- A pattern of conduct, annoying or humiliating in a sexual way, that includes comments of a sexual nature and/or sexually explicit statements, questions, jokes, or anecdotes, that would annoy or humiliate a reasonable person at whom the conduct was directed. Such conduct may include, but is not limited to gestures, facial expressions, speech, or physical contact that is sexual in nature, or which is repeated after the individual signifies that the conduct is perceived to be sexually offensive. Conduct need not be in person but can be written or electronic communication, such as electronic mail and/or comments sent via the internet.

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:

- Taking negative tangible employment actions against a person;
- Failing to provide assistance or instruction that would otherwise be provided;
- Failing to fairly and/or objectively evaluate an employee or student's performance;
- Failing to record an appropriately earned grade for a student; or
- Otherwise sabotaging an employee 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.

IV. Implementing Procedures

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