

SEXUAL OR GENDER-BASED HARASSMENT (INCLUDING RETALIATION) POLICY

SLT 9.3

Date of Last Update:

May 15, 2019

Approved By:

- Senior Leadership Team

Responsible Office:

Inclusion and Equity

POLICY STATEMENT

Sexual or gender-based harassment is prohibited conduct at the University. No employee, student or other person at the University shall engage in sexual or gender-based harassment. The University will take prompt and effective steps to end sexual or gender-based harassment; eliminate any hostile environment caused by sexual or gender-based harassment; prevent its recurrence; and remedy the discriminatory effects on the victim and others as appropriate.

This policy and related procedures for addressing complaints of sexual and gender-based harassment, apply to all University programs and activities, including those conducted off-campus. Where relevant, if the off-campus sexual or gender-based harassment did not occur in the context of a University program or activity, the University will consider the effects of such off-campus sexual or gender-based harassment when evaluating whether it creates a hostile environment on campus or in an off-campus education program or activity.

PROCEDURES

Reporting, Procedures & Notifications

1. **Reports:** Reports of sexual or gender-based harassment should be made immediately to the [Title IX Office](#) and can also be filed [online](#). Under Title IX, most University employees are considered “Responsible Employees” meaning they are required to report to the Title IX Office incidents of Sexual Misconduct that they observe or about which they learn. Professional counselors at the University who provide mental-health counseling are not considered “Responsible Employees” and, therefore, are not required to report any incident

of Sexual Misconduct. Other resources are also available: see the following [link](#). Any inquiry concerning the application of Title IX may be referred to the Title IX Coordinator or to the [U.S. Department of Education Office of Civil Rights](#).

2. **Procedures:** [Procedures](#) for responding to reports of sexual or gender-based harassment are maintained by the Division of Inclusion and Equity. Procedures will be reviewed on an annual basis for proposed revision to be implemented the following academic year. Revisions to procedures are approved by the Vice President of Inclusion and Equity, in consultation with the Senior Leadership Team. The University community (students and employees) will also be broadly consulted and periodically surveyed to obtain input on revisions.
3. **Notifications:** The University community will be notified, annually, of this policy and any revisions, inquiry contact information, and available resources and provided regular training regarding this policy as well as prevention and awareness education related to the prevention of and response to sexual and gender-based harassment.

DEFINITIONS

Definitions

1. **Sexual Harassment** is unwelcome sexual, sex-based, request for sexual favors whether verbal, written, graphic, physical or otherwise, or other unwanted conduct of a sexual nature. When conditions are present as outlined in a. and/or b. below.
2. **Gender-Based Harassment** includes harassment based on gender, sexual orientation, transgender, gender non-conforming, transitioning, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature. When conditions are present as outlined in a. and/or b. below.
 - a. **Quid pro quo** harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature made by a person having power or authority over another constitutes sexual harassment when submission to sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development or performance. This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational or employment program.
 - b. Creates a **hostile environment** that is:
 - i. Sufficiently severe, or persistent or pervasive, and objectively offensive that it

unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the University's education or employment programs and/or activities.

- ii. A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical; a single incident of sexual or gender-based harassment, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression standing alone, is typically not sufficient to constitute a hostile environment.
- iii. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including, but not limited to:
 1. The frequency, nature and severity of the conduct;
 2. Whether the conduct was physically threatening;
 3. The effect of the conduct on the Complainant's mental or emotional state;
 4. Whether the conduct was directed at more than one person;
 5. Whether the conduct arose in the context of other discriminatory conduct (see [Anti-Harassment Policy](#));
 6. Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or University programs or activities; and/or,
 7. Whether the conduct implicates concerns related to academic freedom or protected speech.

c. Transgender, gender non-conforming, transitioning, gender identity, and gender expression definitions:

- i. Transgender: An umbrella term that can be used to describe people whose gender identity and/or expression is different from their sex assigned at birth.
- ii. Gender non-conforming: Describes people who have, or are perceived to have, gender characteristics and/or behaviors that do not conform to traditional or societal expectations.
- iii. Transition/Transitioning: The process of changing one's gender from the sex assigned at birth to one's gender identity.
- iv. Gender Identity: A personal, internal sense of oneself as, for example, male, female, both, or neither.
- v. Gender Expression: The external appearance of one's gender identity, or how

one represents one's gender through hair style, clothing, mannerisms, etc.

Retaliation

1. **Definition:** Retaliation means any adverse action taken against a person for making a good faith report of prohibited conduct (see, generally, policies on [Sexual Misconduct](#), [Sexual or Gender-based Harassment](#), and [Anti-Harassment](#)) or participating in any proceeding under University policy or policies.
 - a. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under University policy or policies.
 - b. Retaliation may be present even where there is a finding of “no responsibility” on the allegations of prohibited conduct.
 - c. Retaliation does not include good faith actions lawfully pursued in response to a report of prohibited conduct.
2. **Reporting:** Acts of alleged retaliation should be reported immediately to the Vice President for Inclusion and Equity, or designees, and will be promptly investigated. The University will take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

More information about Procedures related to this policy, and other useful information can be accessed at the following [link](#).
