

**SOUTHERN ILLINOIS UNIVERSITY
BOARD OF TRUSTEES
POLICY ON SEXUAL HARASSMENT**

[The following policy was approved by the SIU Board of Trustees on May 7, 2009.]

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.

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:

- 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
- 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

- Such conduct has the purpose or effect of substantially interfere 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:

- Submissions 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
- 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 persons find 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:

- Physical sexual assault or coerced sexual intercourse;
- Unwelcome physical contact, such as touching of a person’s body, hair or clothing, or hugging, patting or pinching;
- 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 benefits (*quid pro quo*)
- 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, telephone, or electronic communication such as electronic mail and/or comments sent via the internet.

- 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.
- 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.
- 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:

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

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.

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.

SEXUAL HARASSMENT PROCEDURES FOR SOUTHERN ILLINOIS UNIVERSITY CARBONDALE

I. Procedures on sexual harassment complaints

[The following procedures were approved by the President of Southern Illinois University on May 16, 2001 in accordance with provisions set forth in SIU Board of Trustees *2 Policies G.*]

A. Introduction

Southern Illinois University Carbondale has adopted the following procedures to ensure that the university policy against sexual harassment is adhered to by its employees and agents.

B. Role of Affirmative Action Office

The Chancellor has assigned responsibility for the administration of this policy to the Associate Chancellor for Institutional Diversity^[1] who will oversee the dissemination of the policy to the university community, devise education and training programs, maintain centralized records of sexual harassment complaints, oversee the grievance process, coordinate the resolution of complaints, and evaluate the effectiveness of compliance procedures and related educational programs.

C. Responsibility of Supervisors

Supervisory personnel shall maintain an atmosphere that discourages sexual harassment and shall ensure that the university policy is enforced in their areas. Supervisors shall discourage all behavior that might be considered sexual harassment and shall respond promptly to sexual harassment complaints. University officials who condone acts of sexual harassment or instances of related retaliation shall be subject to disciplinary action.

D. Sexual Harassment Information Advisers

The university has designated a number of individuals to serve as information advisers on the subject of sexual harassment. Sexual harassment information advisers are individuals familiar with university policy against sexual harassment who can assist those who are parties to sexual harassment complaints. Complainants, respondents (the individuals being complained about), witnesses, or supervisors of parties to a complaint may consult sexual harassment information advisers. Such consultation, which is treated in the strictest possible confidence, does not constitute a formal complaint or grievance. Sexual harassment information advisers can provide information about

- a. informal actions that might remedy the situation;
- b. university policy on sexual harassment and procedures for resolving complaints;
- c. applicable state and federal laws (providing copies of same when requested).

Individuals who believe they may have been victims of sexual harassment should seek assistance or advice as soon as possible. Individuals will not be required to reveal their identity in seeking such consultation. Other members of the university community who

have knowledge of such incidents should encourage victims of sexual harassment to consult with sexual harassment information advisers. The names of designated information advisers are published in the *University Directory*, and the Affirmative Action Office web page (<http://affact.siuc.edu/>), and are also available from Human Resources, the Affirmative Action Office, and the Office of the University Ombudsman.

E. The University Ombudsman

The Office of the University Ombudsman is available to assist students, staff, and faculty in the resolution of complaints. Services available include mediation and assistance with filing formal complaints. This office employs a broad informational network to answer questions pertaining to university policy, practice, and procedure. Whenever possible, informal conciliation is attempted. Consultations with this office will be kept confidential to extent possible.

F. Complaints

Complaints may be lodged with either the supervisor of the respondent or with the Affirmative Action Office. A complaint handled by a supervisor cannot subsequently be reinitiated through the Affirmative Action Office or vice versa. Complaints must be submitted not later than 120 calendar days following the most recent alleged incident of harassment. The Associate Chancellor for Institutional Diversity may waive the deadline where circumstances warrant.

The procedures are as follows:

- a. **Complaints filed with supervisors.** Complainants are encouraged to seek assistance at the level of the lowest ranking supervisor not related to the harassment. If a complaint, whether written or verbal, is brought to the attention of a respondent's supervisor, department head, director, or dean, or to any of the vice chancellors or the chancellor, that officer shall take necessary action to resolve the complaint promptly. The Affirmative Action Office should be consulted to determine the appropriate course of action. The supervisor shall submit his/her response to a complaint in a written report to the Associate Chancellor for Institutional Diversity. The report shall include the name of the respondent and the corrective action(s) taken to investigate and resolve the complaint. If the supervisor believes that the university policy against sexual harassment has been violated, the report shall also include a recommendation for formal disciplinary action. The supervisor of the area in which a complaint is raised is responsible for taking reasonable action to prevent retaliation against complainants and other individuals interviewed in the process, as the result of their participation in this procedure.
- b. **Complaints filed with the Affirmative Action Office.** Alternatively, an individual who believes she/he has been subjected to sexual harassment, as defined by university policy, may initiate a complaint with the Affirmative Action Office. The complaint may be submitted orally or in writing. However, any complaint initially submitted orally must be put in writing. The complaint should include the name of the complainant, the name of the respondent, a factual description of the incident(s)

(including dates, times, places, and the names of any witnesses), and the remedy sought.

Any complaint submitted to the Affirmative Action Office will be investigated to determine whether a violation of the university's sexual harassment policy has occurred. In the interest of the parties concerned, all matters will be handled as expeditiously as possible. If, at any point in the processing of a complaint, it appears the complaint could be resolved to the mutual satisfaction of the parties involved, the designated official will attempt to negotiate such an agreement with the parties.

The Associate Chancellor for Institutional Diversity may consult with the appropriate administrative officer (chancellor, vice chancellor, dean or director, as applicable) responsible for the area in which the complaint arises, to determine the method by which an investigation will be conducted. Normally the investigation will be conducted by a team of two individuals, one selected by the Associate Chancellor for Institutional Diversity and one selected by the administrative officer. *The investigative team will be appointed within 10 working days of receipt of written complaint.* The purpose of having more than one individual investigate a complaint is to minimize charges of bias. The investigatory team will interview the complainant, the respondent, and other persons believed to have pertinent factual knowledge. The investigation will afford the respondent a full opportunity to respond to the allegations. At all times, the investigators will take steps to protect privacy.

- A confidential report of findings will be prepared by the investigatory team and submitted to the administrative officer and the Associate Chancellor for Institutional Diversity *normally within 30 working days*. The report will include a summary record of the information gathered and a recommendation noting whether the complaint does or does not constitute a probable violation of the university's sexual harassment policy.
- After reviewing the report of findings, the administrative officer, in consultation with the Associate Chancellor for Institutional Diversity, may conclude that a) the evidence is sufficient to support a finding that the sexual harassment policy was violated, or b) the evidence is insufficient to support a finding that the sexual harassment policy was violated. In the former instance, the administrator will recommend appropriate disciplinary action, which may include oral or written warnings, demotion, transfer, suspension, or discharge. [See *SIUC Online Employee Handbook / Rights and Obligations of Employment / Faculty & AP Staff / Disciplinary Action and Termination for Cause.*] The level of disciplinary action taken will be dependent on the severity of the violation. The parties to the complaint will be notified in writing of the results of the investigation and the nature of the sanctions to be imposed *normally within 10 working days of receipt of the investigative report*. The respondent may appeal the decision and/or disciplinary action through the appropriate grievance procedure. If the recommended sanction is discharge, the respondent may be suspended while applicable required hearing procedures are conducted.

If it is determined that there is insufficient evidence to support the allegation, the complaint will be dismissed. The parties to the complaint will be so notified in writing. The complainant will be advised that if she/he is dissatisfied with the decision, she/he may request review of the decision by the next level administrative officer (vice chancellor or chancellor), who may, if circumstances justify, call for a hearing. The complainant may at the same time exercise the option to file a complaint with an external agency.

All parties involved in the complaint, investigation and appeal processes are obligated to protect the privacy of all persons involved. The university will take reasonable steps to ensure confidentiality. However, confidentiality cannot be guaranteed.

A confidential record of the complaint and any reports shall be maintained by the Associate Chancellor for Institutional Diversity. The record will contain all documentation on the sexual harassment complaint, actions taken, and the nature of the resolution. The file may be reviewed by General Counsel and or Human Resources to ensure full compliance with legal requirements and observance of the rights of all parties involved.

Substantial compliance with all of these procedures shall be deemed in full compliance if the party challenging the procedures has suffered no substantial harm caused by the actual procedures used.

The right of a person to prompt resolution of a complaint filed under this procedure shall not be impaired by the person's pursuit of other remedies. Use of this procedure is not a prerequisite to the pursuit of other remedies. Individuals should be aware that the deadlines for filing a charge with the Illinois Department of Human Rights and with the federal Equal Employment Opportunity Commission are no later than 180 and 300 days, respectively, following the alleged act of sexual harassment.

G. Retaliation

Retaliation against a student or employee who complains of sexual harassment or who participates in an investigation of a complaint is prohibited by university policy and by state and federal law. Acts of retaliation can lead to disciplinary action independent of such action taken as a result of a violation of the sexual harassment policy.

H. Reporting of Complaints Processed through other Grievance Procedures.

The university has a number of grievance procedures. Any grievance finding which may include a violation of the university's sexual harassment policy must be reported to the Associate Chancellor for Institutional Diversity.

II. Educational Program

A. Goals

Educational efforts are essential to establishing a campus environment as free as possible of sexual harassment. There are at least five goals to be achieved through education:

1. educating university personnel and students about prohibited conduct;
2. educating administrators about the proper way to address complaints of violations of this policy or instances of sexual harassment that come to their attention through other channels;
3. educating all victims (and potential victims) to be aware of their rights;
4. educating potential harassers about acts that constitute sexual harassment;
5. educating students, faculty and staff about the cost to the university community – in emotional stress, poor working conditions, lost time, and dilution of effort – of an atmosphere in which sexual harassment is openly or tacitly accepted.

B. Information

1. The Associate Chancellor for Institutional Diversity is responsible for distributing copies of this policy to all current members of the university community and to all those who join the community in the future. The sexual harassment policy will be published in appropriate publications such as student and employee handbooks and student orientation materials. In addition, copies of the policy will be continuously available from the sexual harassment information advisers. Statistics about resolved complaints will also be published on a periodic basis, making every reasonable effort to assure that no information is published which will invade the privacy of any party involved.
2. The Associate Chancellor for Institutional Diversity, in cooperation with the information advisers, will develop educational pamphlets for individuals and for periodic distribution to the campus community.
3. The university will try to ensure that agreements entered into by the university with state and outside contractors performing work on university property will incorporate the university's policy statement on sexual harassment. Academic units that initiate internship programs for students with various employers will also be responsible for providing those employers with a copy of the university's policy statement.

C. Training

1. The Associate Chancellor for Institutional Diversity will coordinate with Human Resources series of training sessions for persons who are likely to receive complaints that this policy has been violated. The intended audience for training will include, but will not necessarily be limited to, such persons as residence hall advisers, academic advisers, and supervisors. Academic departments are required to provide training sessions for faculty, graduate assistants and other instructional personnel.

2. In an effort to help the campus community recognize what constitutes sexual harassment and how to prevent it, a campus-wide educational program will be offered to students, faculty, and staff as resources permit.

III. Evaluation

The Associate Chancellor for Institutional Diversity is responsible for ongoing evaluation of the effectiveness of the sexual harassment policy and procedures. The Associate Chancellor for Institutional Diversity will coordinate quarterly meetings with the sexual harassment information advisers to review complaints and to discuss the effectiveness of the procedures. Recommendations to improve the procedures will be proposed to the chancellor as needed.

Appendix A

Legal Definitions

Section 5/2-101(E) of the Illinois Human Rights Act (775 Ill. Comp. Stat. 5/2-101.E) defines sexual harassment as follows:

"Sexual harassment" means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) 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.

Section 5/5A-101(E) of the Illinois Human Rights Act (775 Ill. Comp. Stat. 5/5A-101.E) defines sexual harassment in higher education as follows:

"Sexual harassment in higher education" means any unwelcome sexual advances or requests for sexual favors made by a higher education representative to a student, or any conduct of a sexual nature exhibited by a higher education representative toward a student when such conduct has the purpose of substantially interfering with the student's educational performance or creating an intimidating, hostile or offensive educational environment; or when the higher education representative either explicitly or implicitly makes the student's submission to such conduct a term or condition of, or uses the student's submission to or rejection of such conduct as a basis for determining:

1. Whether the student will be admitted to an institution of higher education;
2. The educational performance required or expected of the student;
3. The attendance or assignment requirements applicable to the student;
4. To what courses, fields of study or programs, including honors and graduate programs, the student will be admitted;
5. What placement or course proficiency requirements are applicable to the student;
6. The quality of instruction the student will receive;
7. What tuition or fee requirements are applicable to the student;
8. What scholarship opportunities are available to the student;
9. What extracurricular teams the student will be a member of or in what extracurricular competitions the student will participate;
10. Any grade the student will receive in any examination or in any course or program of instruction in which the student is enrolled;
11. The progress of the student toward successful completion of or graduation from any course or program of instruction in which the student is enrolled; or
12. What degree, if any, the student will receive.

Appendix B

External Agency Complaint Procedures

The Illinois Human Rights Act prohibits sexual harassment as defined in Appendix A and establishes the Department of Human Rights and the Human Rights Commission to handle charges of sexual harassment. The federal government's Civil Rights Act prohibits sexual harassment by an employer and assigns the complaint process to the Equal Employment Opportunity Commission (EEOC).

While the university encourages use of its internal policy and procedures, the university's policy does not preclude a person who feels she/he has been the victim of sexual harassment from seeking redress through these external agencies. Filing with the external agencies can be done in lieu of or simultaneously with the university's complaint process. Filing a complaint with the university does not result in the waiver or extension of any time limits required by any external agency.

The initial document filed with the Illinois Department of Human Rights is called a charge and must be filed with the Department of Human Rights within 180 days of the alleged violation. The Department of Human Rights is responsible for investigating the charge, for determining whether substantial evidence of sexual harassment exists, and for attempting settlement. If necessary the Department of Human Rights will prepare and file a complaint with the Illinois Human Rights Commission. If the Department of Human Rights decides to take no action on the charge or fails to act promptly on a charge, the person who filed the charge can file a complaint directly with the Human Rights Commission.

The Human Rights Commission will schedule a hearing on the complaint before an administrative law judge who can recommend certain sanctions and penalties to the Commission in the event a violation is found. The Commission provides a process for appeals.

Under federal law, employees believing they have been subjected to sexual harassment affecting their employment may file a charge with the Equal Employment Opportunity Commission (EEOC). A charge filed with the EEOC must be filed within 300 days of the occurrence of the alleged incident. A charge filed with the EEOC must also be filed with the Illinois Department of Human Rights.

Where to Get Information Regarding SIUC’s Sexual Harassment Policy

Complaint Resolution Officer: Linda McCabe Smith, Associate Chancellor for Institutional Diversity (ACID), 110 Anthony Hall

- **Office of Diversity and Equity (under ACID):** Ms. Casey Parker, Coordinator; 152 Davies Hall; 453-4807
- **Affirmative Action Office (under ACID):** Linda McCabe Smith, Associate Chancellor for Institutional Diversity, 453-1186, or Phyllis Khaaliq, 536-6618

Information Advisors:

Center for International Education	Maggie Flynn	453-7644
College of Agricultural Sciences	Karen Midden	453-2469
College of Applied Sciences & Arts	Elaine Atwood	453-2052
College of Business	Jill Gebke	453-7487
College of Education & Human Services	Katrina James	453-6340
College of Engineering	Lizette Chevalier	453-4321
College of Liberal Arts	Rachel Whaley	453-2494
College of Mass Communication & Media Arts / Daily Egyptian	Deborah Tudor	453-3267
Graduate School	Ratna Sinha	453-4570
Human Resources	Jennifer Watson	453-6661
Intercollegiate Athletics	Kathy Jones	453-5279
Library Affairs	Kandace Riddle	453-1446
Office of Dean of Students	Andy Morgan	453-2461
Office of Diversity and Equity	Casey Parker	453-4807
Plant & Service Operations	Teri Ricci	453-6794
School of Law	Judi Ray	453-8135
School of Medicine – Springfield	George Perich	217-545-5646
University College	Tabitha Stone	453-1828
University Housing	Kate Sartori	453-3318
University Women’s Professional Advancement	Linda McCabe Smith	453-1186
Women Gender & Sexuality Studies	Barbara Bickel	453-5141 or 453-5580

In an emergency situation that involves possible criminal sexual misconduct or in the event of criminal sexual assault please notify **Campus Police at 453-3771 or dial 911** (both lines are TTY/TDD accessible.)

[\[1\]](#) Whenever the term Associate Chancellor for Institutional Diversity is used, it shall also mean his/her designee.