

## University Policy Concerning Sexual Harassment

(The following policy was approved by the SIU Board of Trustees on September 14, 2000 and the 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 C.)

Southern Illinois University

### I. Policy on Sexual Harassment

#### A. General Policy Statement

Southern Illinois University<sup>1</sup> is committed to creating and maintaining a community in which students, faculty, and staff can work together in an atmosphere free of all forms of harassment, exploitation or intimidation. Such actions violate the dignity of the individual and the integrity of the university as an institution of learning. The university will take whatever action is needed to prevent, stop, correct, or discipline behavior that violates this policy. Disciplinary action may include, but is not limited to, oral or written warnings, demotion, transfer, suspension, or dismissal for cause. It is the policy of this university that sexual harassment in any form will not be tolerated; management and supervisory personnel, at all levels, are responsible for taking reasonable and necessary action to prevent sexual harassment. All members of the university community are encouraged to report promptly any conduct that could be in violation of this policy. Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972 and a violation of the Illinois Human Rights Act (IHRA).

#### B. Procedures

Each chancellor is authorized to develop procedures for his or her respective campuses dealing with sexual harassment.

#### C. Prevention

The university will take measures to educate and train employees periodically regarding conduct that could constitute a violation of this policy. All management and supervisory personnel are expected to participate in such education and training and to be knowledgeable concerning the university's policy.

#### D. Definition and Examples

1. Sexual harassment may involve the behavior of a person of either sex toward a person of the opposite or the same sex. Sexual harassment can occur on or off campus. The harasser may be a member of the university community, or an outside individual involved in university business. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, verbal or other expressive behaviors, or physical conduct commonly understood to be of a sexual nature, when:
  - a. submission to or toleration of such conduct is made, either explicitly or implicitly, a term or condition of instruction, employment, or participation in other university activities;
  - b. submission to or rejection of such conduct is used as a basis for employment or for academic decisions or assessments affecting the individual's status as an employee or student; or
  - c. 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.
2. Harassment does not include verbal expressions or written material that is relevant and appropriately related to course subject matter or curriculum, and this policy shall not abridge any individual's rights under the first amendment, academic freedom, or the university's educational mission.
3. The fact that someone did not intend to sexually harass an individual is generally not considered a defense to a complaint of sexual harassment. In most cases it is the characteristics of the behavior and how that behavior is perceived that determine whether sexual harassment occurred.
4. Examples of behavior that may be considered sexual harassment include, but are not limited to, the following:
  - a. physical/sexual assault;
  - b. direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation;
  - c. 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; a pattern of conduct that would annoy or humiliate a reasonable person at whom the conduct was obviously directed. Such conduct includes, but is not limited to gestures, facial expressions, speech, or physical contact understood to be sexual in nature or which is repeated after the individual signifies that the conduct is perceived to be sexually offensive. However, the determination of whether sexual harassment occurred will not depend solely on whether the individual being harassed told the harasser to stop the behavior;

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<sup>1</sup> Southern Illinois University includes campuses at Carbondale; Edwardsville; School of Medicine, Springfield; School of Dental Medicine, Alton; Nakajo, Japan and any other programs affiliated with the University.

5. For conduct to be considered sexual harassment, it need not be direct or explicit. Sexual harassment can be implied from the conduct, circumstances, and the relationship of the individuals involved.
- E. Prohibitions  
The following are strictly prohibited by this policy:
  1. Sexual harassment in any form
  2. Retaliation for seeking information on sexual harassment, making a charge, filing a sexual harassment complaint, or testifying, assisting, or participating in an investigation, proceeding, or hearing involving a complaint of sexual harassment.
  3. Malicious and/or false accusations.
- F. Confidentiality  
All parties in the complaint process are obligated to protect the privacy of all persons involved. The university will take reasonable steps to ensure confidentiality; however, confidentiality cannot be guaranteed.
- G. Complaint Procedures  
Individuals may report acts of sexual harassment through procedures developed by each campus and/or may file a complaint with an external agency. A complaint filed with an external agency does not initiate the university's internal complaint procedures.
- H. Dissemination of Policy  
The policy will be made available to all employees and students. Periodic notices sent to students and employees, about the university's policy against sexual harassment will include information about the complaint procedure and will refer individuals to designated offices/officials for additional information.

### Legal Citations

42 U.S.C. §2000 et. Seq. Title VII of the 1964 Civil Rights Act (Title VII)  
 20 U.S.C. §1681 et. Seq. Title IX of the Civil Rights Act of 1972 (Title IX)  
 775 I.C.L.S. 5/1-101, Illinois Human Rights Act (IHRA)

### II. Compliance Procedures

- 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 (Diversity)<sup>2</sup> 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*, periodically in *Southern Windows*, and the Affirmative Action Office web page at <http://www.siu.edu/~affact>, and are also available from Human Resources, the Affirmative Action Office, and the Office of the University Ombudsman.

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<sup>2</sup> Whenever the term Associate Chancellor (Diversity) is used, it shall also mean his/her designee.

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 (Diversity) may waive the deadline where circumstances warrant.

The procedures are as follows:

1. 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 (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.

2. 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 (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 (Diversity) and one selected by the administrative officer. 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 (Diversity). 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 (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 policy on Disciplinary Action and Termination for Cause:

Faculty and Administrative/Professional (Personnel Policies, IV.C.2.) 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. 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 (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 legal 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 (Diversity).

### III. 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. Associate Chancellor (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 (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 (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.

#### IV. Evaluation

The Associate Chancellor (Diversity) is responsible for ongoing evaluation of the effectiveness of the sexual harassment policy and procedures. The Associate Chancellor (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

Seymour Bryson, Associate Chancellor (Diversity)

AFFIRMATIVE ACTION OFFICE

Seymour Bryson, 453-1186, or Marcia Phelps, 453-1196

INFORMAL MEDIATION

Office of the University Ombudsman, 453-2411

INFORMATION ADVISERS

Counseling Center .....	Virginia Hoffman .....	453-5371
English .....	Lisa McClure .....	453-6848
Human Resources .....	Barbara Anderson .....	453-6682
Human Resources .....	Diann Bauer .....	453-6671
International Students & Scholars .....	Carla Coppi .....	453-5774
Psychology .....	David Dilalla .....	453-3321
Shryock Auditorium .....	Robert Cerchio .....	453-3379
University Ombudsman .....	Lynn Connley .....	453-2411
University Women’s Professional Advancement .....	Linda Gannon .....	453-1366
Women’s Services .....	Angie Heiligenthal .....	453-3655
Women’s Studies .....	Beverly Stitt .....	453-5141 or 453-4564

In an emergency situation that involves possible criminal sexual misconduct or in the event of criminal sexual assault please notify Campus Police at 453-2381 or dial 911 (both lines are TTY/TDD accessible.)