GOVERNORS STATE UNIVERSITY

SEXUAL HARASSMENT POLICY AND COMPLIANCE PROCEDURES FOR FACULTY, ADMINISTRATIVE PROFESSIONAL STAFF, CIVIL SERVICE EMPLOYEES AND STUDENTS

PART I. POLICY

It is the policy of Governors State University, in keeping with efforts to establish an environment in which the dignity and worth of all members of the university community are respected, that sexual harassment of students and employees at Governors State University is unacceptable and will not be tolerated.

Sexual harassment, like harassment on the basis of race, ethnic origin or religion, is a form of discrimination expressly prohibited by law. It is a violation of Title VII of the federal Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972 and a civil rights violation of the Illinois Human Rights Act.

Sexual harassment is harmful not only to the persons involved, but also to the entire university community. When people feel coerced, threatened, intimidated, or otherwise pressured by others into granting sexual favors in exchange for employment or educational opportunities, or are singled out for derision or abuse because of their gender, their academic and work performance is liable to suffer.

A. SANCTIONS

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 reprimands, warnings, counseling, demotion, transfer, modification of duties, suspension without pay, or termination of employment.

B. DEFINITION & EXAMPLES

This definition has been derived from 2 Federal Laws: Title VII of the 1964 Civil Rights Act and Title IX of the Educational Amendments of 1972. 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:
(1) submission to or toleration of such conduct on or off campus is made either explicitly or implicitly, a term or condition of instruction, employment, or participation in other university activities,
(2) 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,
(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.

Sexual harassment may involve the behavior of a person of either sex toward a person of the opposite or the same sex. Examples of behavior that would be considered sexual harassment include, but are not limited to, the following:

(1) physical assault,
(2) direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation,
(3) a pattern of conduct, annoying or humiliating in a sexual way, that includes comments of a sexual nature and/or sexually explicit statements, questions, pictures, electronic transmissions, jokes, or anecdotes,
(4) 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.

The following definition is taken from the state law as shown in Appendix A--The Illinois Human Rights Act. 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 higher education representative toward a student, when such conduct has the purpose of creating an intimidating, hostile, or offensive educational environment, or when the higher education representative either explicitly or implicitly makes the student's submission to or rejection of such conduct a basis of 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.

C. CONSENTING RELATIONSHIPS

A faculty member, or supervisor, who enters into a sexual relationship with a student or an employee, must realize that, where a professional power differential obviously exists, if a charge of sexual harassment is lodged, the burden will be on the faculty member or supervisor to prove immunity on grounds of mutual consent. This situation may be particularly awkward and may want to be avoided for one's own protection.

Relationships between a graduate student and an undergraduate, when the graduate student has some supervisory responsibility for the undergraduate, belong in this category. Among other relationships included are those between a student or employee and administrator, adviser, or counselor who has supervisory responsibility for that student or employee.

D. RESPONSIBILITY OF SUPERVISORS

The President's Office is responsible for coordinating the dissemination and implementation of this Sexual Harassment Policy. Inquiries should be directed to the Affirmative Action Officer. Supervisory personnel of faculty, staff or students, are charged with maintaining an atmosphere that discourages sexual harassment and ensures that the university policy is enforced in their areas. Supervisors are directed to discourage all behavior that might be considered sexual harassment and to respond promptly and without prejudice to sexual harassment complaints. University officials who knowingly condone incidents of sexual harassment or instances of related retaliation will be subject to disciplinary action.

The law recognizes two types of sexual harassment claims:

1. Quid pro quo i.e., "this for that"
ex: supervisor offers something in return for sexual favors or employment decisions are based on whether one submits to such behavior without complaint.

2. Hostile environment
ex: harassing behavior creates an offensive work atmosphere or adversely interferes with job performance.

E. PROTECTION OF THE COMPLAINANT AND OTHERS

No student, faculty member, or staff member may be subjected to any form of 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. Any retaliatory action will be a violation of this policy and will be grounds for disciplinary action.

F. PROTECTION OF THE ACCUSED

Accusations of sexual harassment are grievous and can have serious and far-reaching effects on the careers and lives of accused individuals. Allegations of sexual harassment must be made in good faith and not out of malice. Complaints must be confidential and private and in a manner to protect the privacy of all involved—the alleged harasser, the victim and all witnesses. This serves to protect the reputation of someone who may be falsely accused. Protection against retaliation for all people involved is assured.

G. EXTERNAL AGENCY COMPLAINT PROCEDURES

An investigative and complaint process is also available through the Illinois Department of Human Rights and the federal Equal Employment Opportunities Commission. See Appendix B for more information.

PART II COMPLIANCE PROCEDURES

A. OFFICES OF AFFIRMATIVE ACTION, UNIVERSITY COUNSELING CENTER, EMPLOYEE ASSISTANCE, ETC.

Individuals who believe they 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. They may seek consultation, resolution of complaints, or assistance with filing formal complaints at a number of University units or offices. These units or offices are:

1. University Counseling Center and Employee Assistance Program

   These offices provide opportunities for students, faculty and staff to discuss the situation without the necessity of carrying it further.

2. Deans, Division Chairpersons, Directors, Other Supervisory Personnel

   All University administrators and supervisors are charged with the responsibility of ensuring that the University's Sexual Harassment Policy is carried out in their areas. Failure to act could itself be a violation of this policy.
3. Affirmative Action Officer

The Affirmative Action Officer receives and processes sexual harassment complaints. This office also offers students, faculty and staff the opportunity to discuss a person's rights in a situation of sexual harassment and expedites filing formal complaints.

B. SUGGESTED TACTICS TO DEAL WITH SEXUAL HARRASSMENT

Excerpt reprinted with permission from Stop Sexual Harassment by American Library Association and Capital Cities/ABC, et al.

"My supervisor is harassing me. How should I handle it? I don’t want to hire a lawyer or end up on the evening news. I just want him to stop."

Many women who are harassed initially respond by trying to ignore the problem. But 75 percent of the time, harassment grows worse when it is ignored. Here are some tactics to deal with sexual harassment.

1. **Tell the harasser to stop.** Make it clear you don’t welcome this behavior. You can say this in person or in a letter sent by registered mail. (See sample letter below.) Keep copies of any written correspondence.

2. **Keep notes** describing each incident, including date, time, place, what the harasser said or did, how you responded, who else might have heard or seen it and what you did at the time. Keep these notes at home. Also keep any gifts, notes or cartoons you've received from the harasser.

3. **Talk to others at work** even though it may be embarrassing. Be judicious about talking to your co-workers so you don't encourage gossip or possibly harmful actions by others. But you may find witnesses, allies or other victims of the harasser who will support you. It may be helpful to talk about the experience with friends and family as well.

4. **Follow grievances procedures** outlined in your company's employee handbook if one exists. Talk to your supervisor, the harasser's supervisor, your union steward and any co-worker you think might be helpful. Remember, stopping sexual harassment is the responsibility of the employer as well as the harasser.

5. **Keep copies of your employment record** at home. Harassers sometimes try to defend themselves by attacking their victims' job performance.

6. **Explore legal options and support groups.** If other remedies fail, you may want to file a complaint. Look through the resource list in this brochure for organizations that can help you.
Sample Letter to a Harasser
(send by registered mail)

Date

Dear (Harasser's name)

I am writing this letter to inform you that I do not welcome and feel (uncomfortable) (intimidated) (threatened) (angered) by your action (s). The action (s) I am referring to (include):

Examples:

On or around July 24, 1991, you left a magazine on my desk that I consider obscene. When I asked if it was yours, you claimed that you thought that I would be interested in the subject.

On three separate occasions, starting on the second day of my employment, you followed me into the supply closet to hug me and fondle my breasts.

You booked only one hotel room for the two of us at the engineering association conference in Phoenix and changed the reservation only after I insisted in front of the desk. At the banquet that evening you told me that I was "jeopardizing our working relationship and my position" with my "unfriendliness."

This behavior is offensive to me and constitutes sexual harassment. This (these) incident (s) has (have) created a (unprofessional) (tense) (stressful) working environment that interferes with my job performance, particularly in any matters that require contact with you. Therefore, I am asking you to stop this illegal harassment now.

C. FORMAL COMPLAINTS PROCEDURE

Formal complaints may be lodged with the supervisor of the respondent or with the Affirmative Action Officer. Complaints filed against the Affirmative Action Officer will be referred to the President, who will appoint a neutral person to carry out the role of the Affirmative Action Officer as outlined below. Complaints filed against the President will be referred to the Board.

The Affirmative Action Officer is responsible for conducting the investigation of complaints and preparing an Investigative Report. The following facts should be noted by the complainant:
I. An individual who believes she/he has been subjected to sexual harassment, as defined by this policy, may initiate a formal complaint with the Affirmative Action Officer. The complaint may be submitted orally or in writing. However, any complaint initially submitted orally must be put in writing.

2. The consideration of a complaint, including investigation of the positions of the persons involved, attempts at informal resolution, and the formulation of a final decision ordinarily will be completed by the Affirmative Action Officer within eight calendar weeks, exclusive of holidays, after receipt of a complaint. If consideration cannot be completed in the eight-week interval, the complainant, and other parties as appropriate, will be notified as to the delay.

3. 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 investigatory process, as a result of their participation in this procedure.

4. The following steps will be taken to resolve complaints that are filed with the Affirmative Action Office:
   
a. An in-depth interview will be conducted by the Affirmative Action Officer with the complainant.

   b. The Affirmative Action Officer will contact the person(s) against whom the complaint is being filed within 10 days of receipt of the complaint, and will also interview that person to ascertain their response to the complaint. The investigation will end if the complaint is found to have no merit.

   c. The Affirmative Action Officer will conduct interviews with the complainant, respondent, and/or both to provide an opportunity for resolution of the complaint. This, and further proceedings, will be confidential and private, unless otherwise agreed upon by both parties.

   d. Further investigation may be conducted by the Affirmative Action Officer, including possible interviewing of witnesses, confirming information and seeking additional information and, or documentation. In conducting the investigation, the Affirmative Action Officer shall have unrestricted access to all pertinent material, records, reports and documents in possession of any University personnel and shall be afforded the opportunity to interview all persons possessing relevant information.

   e. Where there are conflicts of information or opinion, the Affirmative Action Officer will conduct an informational hearing with both parties. The complainant and respondent will receive at least three days notice of this meeting. This hearing shall be conducted so that due process is guaranteed to the complainant and respondent.
f. When the investigation is completed, a confidential Investigation Report will be drafted by the Affirmative Action Officer and submitted to the appropriate vice president within five working days. This will include a summary of the allegations and the response of the accused party, a summary of any statements-by witnesses - and their credibility, a summary of the findings of fact, conclusions about the allegations, and recommendations for further action. The appropriate vice president will make a decision on the complaint.

g. Before making a finding that any individual has engaged in sexual harassment, the vice president shall afford the accused the opportunity for a hearing. At this hearing:
   - the burden of proof shall rest upon the accuser;
   - the standard of proof shall be clear and convincing evidence;
   - the accused shall enjoy the right to confront and cross-examine an witnesses against his/her;
   - the accused shall enjoy the right to call witnesses in his/her own behalf;
   - the accused shall enjoy the right to examine and rebut any documents used by the University in any way as part of, or in the development of, the case against him/her, including any notes or working papers drafted during the course of the investigation, even if these are not directly presented as evidence as such.

h. When sexual harassment is found, appropriate administrative disciplinary action may be taken. This action will be taken pursuant to applicable State Universities Civil Service Rules, collective bargaining provisions, and other applicable statutes, regulations and rules. Possible sanctions may include, but not limited to, oral or written reprimands, warnings, counseling, demotion, transfer, modification of duties, suspension without pay, or termination of employment.

i. Either party may appeal this decision to the President. The President's decision is final.

j. Because sexual harassment violates the law, the decision of the educational institution does not prevent any party from taking legal action in the courts.

D. COORDINATION AND IMPLEMENTATION

The President's Office is responsible for coordinating the dissemination and implementation of this Sexual Harassment Policy and will work closely with administrators in the university to assure compliance with the provisions of this policy. All inquiries should be directed to the Affirmative Action Officer, who is Assistant to the President.
E. LAWS GOVERNING SEXUAL HARASSMENT
APPENDIX A contains texts of three laws governing Sexual Harassment. They are:

   Illinois Human Rights Act
   Title VII of the federal Civil Rights Act of 1964
   Title IX of the Educational Amendments of 1972

APPENDIX B contains information about the External Agency Complaint Procedures.

FEBRUARY 1995
APPENDIX A

Legal Definitions

Section 5/2- 101 (E) of the Illinois Human Rights Act 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 of 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 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 purposes 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 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.
TITLE VII OF FEDERAL CIVIL RIGHTS ACT OF 1964, SECTION 703

Discrimination Because of Race, Color, Religion, Sex, or National Origin

Sec. 703.

(a) It shall be an unlawful employment practice for an employer

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges or employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) It shall be an unlawful employment practice for a labor organization--

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Notwithstanding any other provision of this title, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint
labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution of institution of learning is directed toward the propagation of a particular religion.

(f) As used in this title, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

(g) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor organization to fail or refuse to refer any individual for employment in any position, if

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

(h) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin, nor shall it be an unlawful employment practice for an employer to give
and to act upon the result of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin. It shall not be an unlawful employment practice under this title for any employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 6(d) of the Fair Labor Standards Act of 1938, as amended (29 U.S. C. 206(d)).

(i) Nothing contained in this title shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

(j) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number of percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.
Title IX

Discrimination in educational institutions and agencies is against the law. Title IX of the Education Amendments of 1972 protects people from discrimination based on sex in education programs or activities which receive Federal financial assistance. Title IX states that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance....

The United States Department of Education (ED) maintains an Office for Civil Rights, with 10 regional offices and a headquarters office in Washington, D.C., to enforce Title IX.
APPENDIX B

External Agency Complaint Procedures


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 a hearing officer who can recommend certain sanctions and penalties to the Commission in the event a violation is found. The Commission provides a process for appeals.

The Department of Human Rights and the Human Rights Commission may be contacted at the addresses and phone numbers as shown below:

Department of Human Rights
222 S. College Street
Springfield, Illinois 62704
(217) 785-5100
T.D.D. (217) 785-5125
OR
State of Illinois Center
100 W. Randolph St., 5th Floor
Chicago, Illinois 60601
(312) 814-6200
T.D.D. (312) 263-1579

Human Rights Commission
William G. Stratton Office Bldg., 4th Floor
Springfield, Illinois 62704
(217) 785-4350
OR
State of Illinois Center
100 W. Randolph St., 1 Oth Floor
Chicago, Illinois 60601
(312) 814-6269
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 180 days of the occurrence of the alleged incident. The EEOC can be contacted by writing or calling:

Equal Employment Opportunity Commission
Central West Plaza Building
625 N. Euclid Street, 4th Floor
St. Louis, Missouri 63108

OR

536 S. Clark Street
Chicago, Illinois 60605
(312) 353-2713