

DRAFT

EACH CAMPUS SHALL DEVELOP ITS OWN PROCEDURES IMPLEMENTING THE BOARD'S SEXUAL HARASSMENT POLICY – THIS DRAFT IS SUBMITTED AS RECOMMENDED PROCEDURES AND BEST PRACTICES

**SOUTHERN ILLINOIS UNIVERSITY CARBONDALE
SEXUAL HARASSMENT COMPLAINT AND INVESTIGATION PROCEDURES**

I. Delegation and Procedures

The President hereby delegates to the Chancellor of SIUC and SIUE the authority and responsibilities to establish campus procedures for the implementation of the *Sexual Harassment Policy*.

The following procedures shall be used at Southern Illinois University Carbondale to implement and enforce the University's policy against sexual harassment and to ensure that the University's employees, students, and agents comply with the policy.

A. Role of the Associate Vice Chancellor for Compliance (or equivalent office)

The Chancellor delegates the responsibility for the administration of this policy to the Associate Vice Chancellor for Compliance. The Associate Vice Chancellor for Compliance shall be responsible for the investigation of all harassment complaints, disseminate the policy to the University community, devise education and training programs, maintain centralized records of sexual harassment complaints, and coordinate the resolution of complaints.

B. Investigation and Information Resource Personnel

The Associate Vice Chancellor for Compliance shall designate individuals to serve as harassment investigators and information resource personnel on the subject of sexual harassment. The individuals appointed as investigation and information resource personnel shall be familiar with the University's policy prohibiting sexual harassment, and with campus complaint procedures. The investigators and information resource personnel shall be employed as members of the staff of the Associate Vice Chancellor for Compliance.

The harassment investigators shall conduct investigations pursuant to Section D of this procedure, and under the direction of the Associate Vice Chancellor for Compliance, shall be solely responsible for the investigation of complaints.

Information resource personnel shall assist individuals who believe they may be victims, witnesses, or others with knowledge of sexual harassment in filing a complaint. Further, individuals who complain of or are accused of sexual harassment, witnesses, or supervisors of parties to a complaint may consult information resource personnel for assistance during the

investigation or subsequent processes. Information resource personnel also shall provide the following information:

1. The University Policy on Sexual Harassment;
2. Campus complaint and investigation procedures; and
3. Information related to campus and community resources available to the individual.

The names of designated information resource personnel will be published in the *University Directory*, periodically in *Saluki Times*, and on the Associate Vice Chancellor for Compliance web page at <http://www.siu.edu>, and are also available from the Office of Human Resources or at other places as determined by the Associate Vice Chancellor for Compliance.

C. Reporting Sexual Harassment

Anyone who believes that he or she has been the victim or witness of sexual harassment should promptly report this belief and the basis thereof, to either his or her supervisor, the supervisor of the alleged harasser, or the Office of the Associate Vice Chancellor for Compliance. In order to facilitate the efficient and effective investigation of complaints, reporting individuals should include as much relevant information as possible, such as the name of the victim, the name of the alleged harasser, and a factual description of the incident(s) (including dates, times, places, and the names of any witnesses).

Individuals are encouraged to make complaints in writing; however, written complaints are not required. Consistent with the University's obligation to investigate complaints, and to the extent permitted by law, these records will be kept confidential.

Consistent with the University's Sexual Harassment Policy, and its applicability to outside contractors, vendors, program participants, and other visitors to University property and buildings, complaints made against such individuals should be reported in the same manner as described above, and will be investigated pursuant to the process detailed below, to the extent possible, depending on the particular circumstance.

D. Investigation Process

All complaints not initially filed with the Associate Vice Chancellor for Compliance shall be forwarded by the recipient to the Associate Vice Chancellor for Compliance immediately upon receipt. If the complaint is verbal, the supervisor or other individual forwarding the complaint shall provide a written report with as much information and detail as possible to the Associate Vice Chancellor for Compliance. Within five (5) business days of receiving a complaint of sexual harassment, the Associate Vice Chancellor for Compliance, or his or her designee, shall make an initial determination as to whether the complaint provides facts sufficient to warrant an investigation. If the complaint does not provide facts sufficient to warrant an investigation, the Associate Vice Chancellor for Compliance shall notify the alleged victim, the accused, and the accused's supervisor.

If the Associate Vice Chancellor for Compliance, or his or her designee, determines that the complaint warrants an investigation, consistent with the independence and integrity of the investigation, the Associate Vice Chancellor shall notify the victim, the accused, and the accused's supervisor of the investigation. The Associate Vice Chancellor shall also notify each individual of the name of the investigator(s) he/she has assigned to the complaint. Further, the Associate Vice Chancellor for Compliance may place the alleged harasser on paid administrative leave, or otherwise ban such individual from campus pending the investigation, if the Associate Vice Chancellor for Compliance believes that it is in the best interest of the University, or may aid the investigation. The Associate Vice Chancellor for Compliance shall consult with the appropriate supervisor before determining that an alleged harasser will be placed on paid administrative leave.

The investigator(s) shall begin the investigation as soon as practicable, and shall complete the investigation within ten (10) business days of receiving the complaint from the Associate Vice Chancellor for Compliance. The Associate Vice Chancellor for Compliance may extend this period based upon the particular circumstances of the investigation.

Upon completion of the investigation, the investigator(s) shall prepare a confidential report of the findings and any recommendations, to the Associate Vice Chancellor for Compliance. The report shall include a statement as to whether the investigator(s) believe that a probable violation of the University's sexual harassment policy occurred, a summary record of the information gathered, and any mitigating or aggravating factors to be considered. This report shall be completed within five (5) business days, or as soon as practicable following the completion of the investigation.

E. Findings

Upon receipt of the report by the assigned investigator(s), the Associate vice Chancellor for Compliance shall review the report and make a determination regarding the allegations. If the Associate Vice Chancellor for Compliance, or his or her designee, determines that the evidence is insufficient to support a finding that the sexual harassment policy was violated, the Associate Vice Chancellor shall prepare a written notice of the conclusion and provide a copy to the alleged victim, accused, and the accused's supervisor. Such notice shall specify that retaliation against the alleged victim is strictly prohibited and any such retaliation shall result in disciplinary action, up to and including termination.

If the Associate Vice Chancellor for Compliance, or his or her designee, determines that the evidence is sufficient to support a finding that the sexual harassment policy was violated, the Associate Vice Chancellor for Compliance shall prepare a written summary of the investigative process, finding and recommendation. A copy of this summary shall be provided to the complainant, accused, and the accused's supervisor within five (5) business days of its completion. The Associate Vice Chancellor for Compliance, or his or her designee, shall recommend to the appropriate administrator, an appropriate remedy and/or disciplinary action. Prior to determining the recommendation, the Associate Vice Chancellor for Compliance, or his or her designee, shall consult with the immediate hiring authority of the alleged harasser and

other administrators as appropriate. Such consultations shall be considered in developing a proper remedy and/or recommended disciplinary action.

F. Discipline Procedures

Disciplinary action, including oral or written warnings, demotion, transfer, suspension, discharge, ban from campus, training, or monitoring may be imposed for violations of the Sexual Harassment Policy. The level of disciplinary action taken will be dependent on the nature, severity, frequency and pervasiveness of the violation(s). All such discipline shall be imposed pursuant to appropriate disciplinary policies or collective bargaining agreements. If the recommended sanction is discharge, the harasser may be suspended with or without pay while applicable appeal procedures are conducted.

Disciplinary action may also be taken against contractors, their sub-contractors doing business on University property or in University facilities, program participants, and visitors to the University. The disciplinary action taken shall be dependant on the nature and severity of the offense.

1. Employees and Other Individuals

If there is a finding of sexual harassment against a University employee or another individual, the University may impose sanctions including, but not limited to:

- a. Apology to the victim
- b. Advice and counseling
- c. Required attendance at sexual harassment training
- d. Written warning
- e. Letter of reprimand
- f. Removal of sexually explicit material
- g. Required attendance at substance abuse training, if substance abuse was involved
- h. Required anti-harassment training
- i. Loss of travel dollars
- j. Loss of choice assignments
- k. Change of job or class assignment
- l. Suspension, probation, termination
- m. Loss of access to the University-related facilities, property or equipment

2. Students

If there is a finding of sexual harassment against a student or student group, the University may impose sanctions including, but not limited to:

- a. Apology to the victim
- b. Written warning
- c. Letter of reprimand

- d. Removal of sexually explicit material
- e. Prohibiting students from holding office or participating in activities such as sports events for a specified time
- f. Transferring the student to another class or job
- g. Disbanding or suspending a social organization or other student group involved in sexual harassment
- h. Transferring students to different housing or prohibiting them from living in institutional housing facilities
- i. Requiring attendance on substance abuse training, if substance abuse was involved
- j. Requiring relevant community service
- k. Requiring perpetrators to attend workshops on peer harassment
- l. Loss of student worker position or graduate assistantship
- m. Suspension, probation, dismissal or expulsion

3. Contractors, Sub-contractors, Program Participants, Visitors

If there is a finding of sexual harassment against a contractor, sub-contractor, program participant or visitor, the University may impose sanctions including, but not limited to:

- a. Apology to the victim
- b. Written warning
- c. Letter of reprimand
- d. Removal of sexually explicit material
- e. Suspension, probation, dismissal or expulsion
- f. Removal from approved bid list for any University-related projects, programs or other
- g. Loss of access to the University-related facilities, property or equipment
- h. Termination of current contract for breach

G. Rights of the Alleged Victim

Any individual who reports being a victim of sexual harassment shall have the following rights:

1. To present relevant information to the investigators;
2. To be informed of the conclusion(s) reached as a result of the complaint;
3. To be free from retaliation for filing a complaint; and
4. To appeal any adverse determination pursuant to the relevant policies.

Consistent with the University's obligation to investigate complaints of sexual harassment, and to the extent permitted by law, the privacy of the alleged victim will be maintained.

H. Rights of the Alleged Harasser

Any individual who is accused of sexual harassment shall have the following rights:

1. To be informed of the allegations of harassment in a manner that will provide the accused an opportunity to respond;
2. To present relevant information to the investigators;
3. To be informed of the process of the investigation and the conclusions reached; and
4. To appeal any adverse determination pursuant to the relevant policies or collective bargaining agreement.

Consistent with the University's obligation to investigate complaints of sexual harassment, and to the extent permitted by law, the privacy of the alleged harasser will be maintained.

I. Reporting Requirements of the Associate Vice Chancellor for Compliance

The Associate Vice Chancellor for Compliance shall, at the end of each fiscal year, provide the number of complaints and the disposition of such complaints to the Chancellor and the offices of the Illinois Department of Human Rights and the Illinois Board of Higher Education, pursuant to State statute.

II. Appeal Process

A. Sexual Harassment Panel

Upon Appeal by either the accused or the complainant, a Sexual Harassment Panel shall be formed for the specific purpose of conducting a de facto review of the investigation process and findings of the Office of the Associate Vice Chancellor for Compliance in order to determine whether the evidence presented during the investigation supports the findings of the Office of the Associate Vice Chancellor for Compliance.

The Sexual Harassment Panel shall be drawn from a pool composed of three representatives from each of the four functional areas governed by the Vice Chancellors. Functional area heads will recommend candidates for the pool to the Associate Vice Chancellor for Compliance, who will forward the recommendations to the Chancellor. The twelve members of the pool will be approved by the Chancellor on the basis of ability to maintain objectivity, to maintain confidentiality and to attend training. The Sexual Harassment Panel pool shall include representatives from faculty, staff, and civil service and shall include both males and females and represent diversity.

A Sexual Harassment Panel shall be composed of three members of the Sexual Harassment Panel pool. None of the three panel members shall be drawn from the same school, college, or other reporting area as either the complainant or the accused.

[Need to develop provision to include student representation on the appeal panel.]

B. Procedures for Appeal

The Sexual Harassment Panel will proceed as follows:

1. Within five (5) working days of notification of the results of the investigation, if the complainant or accused wishes to appeal the findings, he or she shall provide written notice of appeal to the Office of the Associate Vice Chancellor for Compliance. Decisions not appealed within such time frame are deemed final.
2. Within five (5) working days of receipt of the notice of appeal, the Office of the Associate Vice Chancellor for Compliance shall select the three members of the Sexual Harassment Panel, taking into account such factors as the nature of the complaint, the prior experience and availability of the eligible members of the Pool, and equitable gender representation on the Panel, and provide each member of the Panel with a copy of the Investigation Report
3. Within ten (10) working days of receipt of the Investigation Report, the Panel will convene to review and discuss the Investigation Report and make a decision to uphold, reverse, or modify the decision. If a majority of the Panel determines that additional evidence would assist in their review and decision-making process, then the Panel will request such information. If new or additional evidence is obtained, the Panel shall submit immediately such evidence to the Associate Vice Chancellor for Compliance, who shall render a new decision based on such evidence within ten (10) working days of receipt of the new evidence.
4. Within ten (10) working days of the conclusion of the Panel's review, it shall prepare a written report of its decision, and any recommendations for sanctions, and forward a copy of such report to the complainant and accused with a copy to the Office of the Associate Vice Chancellor for Compliance.
5. If the Panel makes a finding that the Sexual Harassment Policy was violated, the Associate Vice Chancellor for Compliance will forward a copy of the Panel's report and recommendations for sanctions, to the appropriate University personnel for action.
6. Within ten (10) days of receipt of the Panel's report and recommendations, the appropriate University personnel will impose sanctions as deemed appropriate.

7. The time frames for review outlined in this procedure may be extended if the specific circumstances warrant the need for additional time.
8. An appeal shall stay any implementation of disciplinary action or remedies, unless the Associate Vice Chancellor for Compliance determines that taking such action pending appeal is necessary and reasonable.

C. Appeal from Sexual Harassment Panel Findings

Within five (5) working days of receipt of the Sexual Harassment Panel's report, either the accused or complainant shall provide written notice of appeal to the Office of the Chancellor. The Chancellor will review the record and either uphold or reverse the decision being appealed within ten (10) working days of receipt of the appeal. The Decision of the Chancellor is final, and there will be no additional University appeals of his or her decision.

III. Disclosure of Documents

The Associate Vice Chancellor for Compliance or designee shall take reasonable steps to inform the accused of the nature of the charges against him or her, the basis of the allegations, and provide the accused the opportunity to respond.

To the extent required in litigation, the University, subject to protecting the confidentiality of the alleged victim and witnesses, shall provide any and all documents regarding the investigation, policies and procedures, or other documents germane to the action.

The Associate Vice Chancellor for Compliance may provide, prior to formal litigation, and subject to protecting the identity of the alleged victim or potential witnesses, redacted reports, documents and other materials germane to the investigation. The Associate Vice Chancellor's decision regarding disclosure shall be final and non-appealable.

Any documents disclosed either to the accused, the alleged victim, or to those representing either party, shall be used for the sole purpose of investigating or defending against the allegations of sexual harassment, and shall not be disclosed to any third parties, unless required by law. Information contained in any such documents shall remain confidential for all parties, to the extent allowable under applicable laws, and subject to the University's duty to investigate claims of sexual harassment. Under no circumstances shall any such documents or information contained therein be used to retaliate against the alleged victim, the accused, or any participating witnesses.

IV. Exclusive Remedy

The procedures set forth herein shall be the exclusive remedy at the University level available to any person complaining of sexual harassment. 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 remedies outside the University. 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.

V. Education of Campus Community

A. Goals

Educational efforts are essential to establishing a campus environment free from sexual harassment. The Associate Vice Chancellor for Compliance, in conjunction with the Office of General Counsel, shall develop educational and training programs to ensure compliance with this policy. The Associate Vice Chancellor for Compliance shall work to achieve the following five goals through education:

1. Educating University personnel and students about prohibited conduct and acts that constitute sexual harassment;
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 students, faculty and staff about the potential legal, financial and overall adverse impact on the University, for failure to abide by this policy.

B. Professional Development and Training

1. The Associate Vice Chancellor for Compliance shall coordinate, in conjunction with the appropriate departments and offices, a 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 be limited to, such persons as residence hall advisors, academic advisors, 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.

C. Information

The Associate Vice Chancellor for Compliance is responsible for distributing copies of this policy to members of the University community. The sexual harassment policy and procedures shall be available on the internet, and other locations as determined by the Associate Vice Chancellor for Compliance.

D. Procurement and External Relations

To the extent practicable, the University shall take reasonable steps 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 prohibiting sexual harassment. Academic units that initiate internship or co-operative programs for students with various employers will also be responsible for providing those employers with a copy of the University's Sexual Harassment Policy.

VI. Evaluation

The Chancellor is responsible for the ongoing evaluation of the effectiveness of the sexual harassment policy and procedures, and shall report his or her findings on a regular basis to the President.

VII. External Agency Complaint Information

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).

The United States Department of Education Office for Civil Rights enforces several Federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education, including Title IX of the Education Amendments of 1972, which prohibits sex discrimination.

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 an external agency.

The Illinois Department of Human Rights can be contacted at:

Website: www.state.il.us/dhr

In Chicago:
James R. Thompson Center
100 West Randolph Street, Suite 10-100
Chicago, IL 60601
(312) 814-6200 or (800) 662-3942
(312) 263-1579 (TDD)

In Springfield:
222 South College St., 1st Floor
Springfield, IL 62704
(217) 785-5100 (217) 785 -5179 (TDD)

In Marion:
2309 W. Main St. Marion, IL 62959
(618) 993-7463

The Equal Employment Opportunity Commission (EEOC) can be contacted at:
Website: www.eeoc.gov

St. Louis District Office
Robert A. Young Federal Building
1222 Spruce St., Rm 8.100
St. Louis, MO 63103
(800) 669-4000 Phone
(314) 539-7894 Facsimile
(800) 669-6820 TTY

The United States Department of Education, Office for Civil Rights can be contacted at:

Chicago Office
Office for Civil Rights
U.S. Department of Education
Citigroup Center
500 W. Madison Street, Suite 1475
Chicago, IL 60661
Telephone: 312-730-1560
FAX: 312-730-1576
TDD: 877-521-2172
Email: OCR.Chicago@ed.gov

VIII. Where to Obtain Additional Information Regarding the University's Sexual Harassment Policy and Complaint Procedures:

- Office of the Associate Vice Chancellor for Compliance [*Insert Contact Information*]
- Information Resource Personnel [*Insert List of Resource Personnel and Contact Information*]

In an emergency situation that involves possible criminal sexual misconduct, or in the event of criminal sexual assault, please notify the Department of Public Safety at 618-453-3771 or dial 911.

APPENDIX A

Illinois State Statutory Definitions

Section 5/2-101(E) of the Illinois Human Rights Act (775 ILCS 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 ILCS 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.