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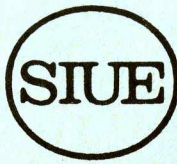
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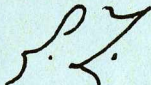


BULLETIN

To the Faculty, Staff and Students of Southern Illinois University at Edwardsville

Vol. 21, No. 6
April 23, 1990

MEMO TO: The University Community

FROM: Earl Lazerson 

SUBJECT: Revised Sexual Harassment Policy and Procedures

In 1989 a broad based University committee comprised of representatives of the Student, Faculty, and Staff Senates and the Human Relations Office (formerly the Central Affirmative Action Office) undertook revision of the University's sexual harassment policy and procedures. The policy and procedures form an addendum to the University Affirmative Action Plan. The Committee's proposal was reviewed by the respective Senates, comments received were considered by the Committee, and a proposal submitted for my consideration.

I have now approved a revised sexual harassment policy and procedures for SIUE (attached). The University is committed to providing a working and learning environment that is free from sexual harassment, and I encourage a careful reading of the revised policy and procedures. Full compliance is expected of all members of the University community.

Attachment

PRESIDENT'S OFFICE

APR 24 1990

SOUTHERN ILLINOIS UNIVERSITY
AT EDWARDSVILLE

SEXUAL HARASSMENT ADDENDUM TO THE SOUTHERN ILLINOIS UNIVERSITY AT EDWARDSVILLE
AFFIRMATIVE ACTION PLAN

Rationale

Sexual Harassment is prohibited by Title VII of the Civil Rights Act of 1964 and by Title IX of the Education Amendments of 1972. The 1980 Equal Employment Opportunity Commission (EEOC) Official Guidelines on Sexual Harassment, the Illinois Human Rights Act as amended, and court cases such as the 1986 Meritor Savings Bank, FSB v. Vinson continue to influence and define sexual harassment in higher education in Illinois. These regulations and judicial decisions specify that universities may be held legally liable for sexual harassment offenses carried out by administrators, faculty, staff, students, and vendors toward any member of the University community. Universities are required to offer accessible grievance procedures for sexual harassment complaints and to take immediate corrective action when it is warranted.

Sexual Harassment is common nationwide for both students and employees. Although women are most often the recipients of sexual harassment, males also experience sexual harassment. Although sexual harassment is often carried out by people maintaining professional authority over their victims, most offenses are carried out by peers, whether they be students, faculty, staff, or administrators.

According to Southern Illinois University at Edwardsville's Statement of Values, the University seeks to maintain an environment for teaching, learning, and service that is safe, humane, enlightened, supportive, and stimulating. Sexual harassment damages people, thereby undermining the mission and values of the University. In a teacher/student relationship, if a student feels demeaned, compromised, or threatened by reprisal due to unwanted sexual attention, the student has lost the freedom of intellectual exchange crucial to learning. In a supervisor/employee relationship, there is necessarily a power differential between employees and their supervisors, but when that power is used to disparage an employee sexually or to force sexual favors, the power is abused and a damaging, unacceptable work environment is created.

People forced to learn or work in an environment in which sexual harassment occurs may suffer physical and/or emotional damage in addition to decreased productivity in their studies or jobs. Hence, the entire university community suffers when sexual harassment is allowed to pervade the academic atmosphere through neglect and/or the lack of a policy prohibiting it. Because sexual harassment is illegal, is widespread, and undermines the purposes of university education and work, SIUE has adopted this policy on sexual harassment. Each member of the University community shares a common responsibility to ensure an environment free from sexual harassment and is encouraged to interact with colleagues to develop understandings of those responsibilities.

POLICY AND PROCEDURES ON SEXUAL HARASSMENT

Definition

In this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

- (1) Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, acceptance, or status in a job, course, program, or activity;
- (2) Submission to or rejection of such conduct is used as a basis for an employment or education decision; or
- (3) Such conduct has the purpose or effect of interfering substantially with an individual's work or educational performance, or of creating an intimidating, hostile, or offensive environment for work or learning.

The courts have recognized [Meritor Savings Bank, FSB v. Vinson; Brown v. City of Guthrie; Bundy v. Jackson] two types of sexual harassment: quid pro quo and "hostile environment."

- (1) Quid pro quo sexual harassment: when an employee's submission to unwelcome sexual conduct becomes an explicit or implicit condition of employment; or when personnel actions such as promotion, transfer, compensation, or discipline are determined on the basis of an employee's response to such conduct.

In the case of students, quid pro quo sexual harassment: when a student's submission to unwelcome sexual conduct becomes an explicit or implicit condition of grades, admission to a program, a favorable recommendation, or similar decisions.

- (2) "Hostile environment" sexual harassment has been defined as unwelcome sexual conduct which unreasonably interferes with an individual's job or academic performance or creates an intimidating, hostile, or offensive work or learning environment.

Sexual harassment includes, but is not limited to, unwelcome verbal, visual, or physical behaviors. These behaviors may occur as sexual comments or advances, sexual slurs or jokes, leering, displays of sexually suggestive objects or pictures, sexually suggestive gestures, touching, pinching, physical abuse, or sexual assault.

Statement of Policy

Sexual harassment will not be tolerated at Southern Illinois University at Edwardsville. It is prohibited by law and conflicts with the policies and interests of the University. Therefore, no member of the University community shall engage in sexual harassment.

Grievance Procedures

Each member of the University community shares a common responsibility to maintain an environment free from sexual harassment. However, the University office designated to coordinate actions to prevent and eliminate sexual harassment and to handle complaints of alleged sexual harassment is the Human Relations Office. Persons who wish to bring forth sexual harassment complaints [hereinafter designated complainant(s)] shall inform the Human Relations Office of the action(s) leading to the complaint. The person(s) bringing forth the complaint need not be the alleged victim of sexual harassment.

The Human Relations Office will work to arrive at an informal resolution of a complaint. Generally, this will be carried out as follows:

- (1) Within ten (10) working days of initial notification, the complainant will consult with the Human Relations Office regarding the nature of the complaint and the resolution sought.
- (2) Generally, within five (5) working days after such consultation, the Human Relations Office will initiate an inquiry with due regard given to matters of confidentiality and the rights of all parties involved. The purpose of this inquiry is to establish whether there is a reasonable basis for believing that the alleged violation has occurred. The inquiry undertaken by the Human Relations Office does not constitute and is not to be construed as a University sanction. The formality of the inquiry may vary depending on the circumstances of the complaint, but generally will include the following.
 - (a) Meeting with the alleged victim to clarify the complaint and explain University policies and federal and state regulations that pertain to sexual harassment. A copy of the "Sexual Harassment Addendum to the Southern Illinois University at Edwardsville Affirmative Action Plan" shall be shared with the complainant and/or alleged victim of sexual harassment.
 - (b) Meeting with the person against whom the complaint is made to inform him/her of the complaint and of his/her rights in the matter, and to obtain relevant information.
 - (c) Meeting with other persons (e.g., witnesses) believed to have relevant information.

In the event that informal procedures fail to resolve the complaint, University employees and students shall have full and equal access to approved or negotiated grievance procedures. The role of the Human Relations Office in formal grievances related to sexual harassment concerns is to assist individuals in understanding grievance procedures. Hearing committees which are convened as a result of the grievance process shall receive appropriate training so that members understand the definition of sexual harassment, activities which constitute sexual harassment, rights and responsibilities of individuals and the University with respect to sexual harassment, and other appropriate matters. In addition, the Human Relations Office may, at the request of the President, assist the President in reviewing recommendations of hearing committees when matters pertaining to sexual harassment are involved in the complaint.

A confidential record of the complaint shall be maintained in the Human Relations Office. The record will contain all documentation on the sexual harassment complaint; actions taken by the Human Relations Office; and the nature of any resolution. Generally, only the Director of Human Relations has access to the confidential file. In some instances, the file may be reviewed by the General Counsel to ensure full compliance with legal requirements and observance of the rights of all parties involved.

A complainant may also seek relief through the Equal Employment Opportunity Commission, the Office of Civil Rights of the U.S. Department of Education, the State of Illinois Department of Human Rights, and the courts. Complainants should be aware that specific time limits for filing complaints with each of these agencies apply.

Sanctions for Sexual Harassment and Individual and Institutional Liability

Possible sanctions for sexual harassment offenses, without limitation, may include oral reprimand, written reprimand, suspension, or discharge and may affect promotion, tenure, and salary decisions. Vendors who are found responsible for sexual harassment may be barred from the procurement process. Sanctions shall be imposed with due regard for legal requirements and University policy and applicable guidelines.

Consensual Romantic and Sexual Relationships

In 1986, the U.S. Supreme Court ruled that whether behavior is unwelcome is the significant factor in a sexual harassment claim (*Meritor Savings Bank, FSB v. Vinson*). Even though this suggests that a mutually consenting romantic or sexual relationship does not constitute sexual harassment, consensual relationships, especially in instances when there is an asymmetric distribution of power (e.g., teacher/student, administrator/employee, supervisor/employee) may result in professional problems. What may begin as a consensual relationship may be easily construed as sexual harassment or exploitation at a later time. In addition, romantic or sexual relationships including, but not limited to, those between an administrator or supervisor and an employee or between a teacher and a student, may cause other employees or students to doubt the fairness with which they are treated and/or evaluated as they work and study. The imbalance in power between supervisors and subordinate employees and between teachers and students often leads observers to view a romantic or sexual relationship as exploitative even though it may be considered consensual by the participants.

Some universities, noting the fundamentally asymmetric power distribution of relationships between faculty, administrators, or supervisors and people serving under their professional responsibility, maintain that the concept of voluntary relationships within this context is suspect; these universities prohibit romantic and sexual relationships whether or not they are considered to be consensual. While SIUE has not adopted this more stringent position, any behavior which constitutes sexual harassment will not be tolerated. In light of the above and given the potential for unfair treatment of employees and students and for damage to the careers of administrators, supervisors, faculty members, employees, and students, serious reflection and restraint are necessary.