

Nicholls State University
POLICY PROHIBITING WORKPLACE & SEXUAL HARASSMENT,
DISCRIMINATION & RETALIATION

In November 1980, the Equal Employment Opportunities Commission (EEOC) issued final guidelines on sexual harassment. These guidelines outline conduct that would be in violation of Title VII of the Civil Rights Act of 1964. The guidelines provide that unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment 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, (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

The guidelines further provide the ultimate responsibility for sexual harassment in the workplace lies with the employer. The agency is responsible for its acts and those of its agents and supervisors even if the acts complained of were forbidden by the employer and even if the employer did not know of the occurrence of such acts. With respect to conduct between fellow employees, an employer is responsible when the employer or its agents or supervisors knew or should have known of the behavior and failed to take immediate and corrective action.

The Office of Federal Contract Compliance Programs (OFCCP) has issued sexual harassment regulations that are almost identical to EEOC guidelines on sexual harassment. Violation of these regulations could affect the University's efforts to retain or obtain federal government contracts.

Sexual harassment in the workplace is a form of employee misconduct that will not be tolerated. It not only disrupts the orderly work environment; it can lead to charges of discrimination and could prove to be costly for the University. Deans, Directors, Department Heads, Supervisors, and all other Administrative Officers will take all steps necessary to ensure that the University is free of any form of sexual harassment.

Nicholls State University ("NSU") is committed to maintaining an environment free from any type of harassment, discrimination, and retaliation. In furtherance of that commitment, NSU has adopted this policy forbidding harassment, discrimination, or retaliation of any kind against any applicant or employee of NSU. This policy recognizes that harassment, discrimination, and retaliation on the basis of race, color, gender, age, religion, national origin, citizenship, disability, sexual orientation, or veteran status subverts the mission of NSU and is strictly prohibited.

I. Prohibited Conduct

A. Discrimination

Discrimination against any individual with respect to all phases of the employment relationship, including recruiting, testing, hiring, upgrading, promotion/demotion, lay-off, termination, rates of pay, benefits, selection for training, or any other terms,

conditions, or privileges of employment, because of the individual's race, color, gender, age, religion, national origin, citizenship, disability, sexual orientation, or veteran status is illegal and will not be tolerated at NSU.

B. Sexual Harassment

Sexual harassment is defined as conduct of a sexual nature that is unsolicited and unwelcome. It includes, but is not limited to:

1. Sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature.
 - a. Examples
 1. Verbal – talking about sex or sexual feelings, making sexual or derogatory comments or innuendo, slurs, jokes or stories of a sexual nature, whistling or making other suggestive sounds, and epithets.
 2. Nonverbal – suggestive or obscene letters, notes, invitations, gifts, leering, making sexual gestures, displaying materials that are sexually suggestive or contain sexually suggestive objects or pictures, cartoons, posters or magazines, and hindering or blocking movement.
 3. Physical – assault, touching, kissing, hugging, massaging, brushing up against another person, having sex or attempting to have sexual relations with another person.
2. Continuing to express sexual interest after being informed that the interest is unwelcome.
3. Making reprisals, threats of reprisals or implied threats of reprisals, following a negative response. For example, either implying or actually withholding support for an appointment, promotion or change of assignment or suggesting that a poor performance report will be provided.
4. Conduct that is persistently abusive toward others and implies a discriminatory attitude or hostility toward their personal or professional interests because of sex.
5. Engaging in implicit or explicit coercive sexual behavior which is used to control, influence or affect the career, salary and/or work environment of another employee.
6. Offering favors or employment benefits such as promotions, favorable performance evaluations, favorable assigned duties or shifts, recommendation, reclassifications, etc., in exchange for sexual favors (anything from physical to oral sexual attention).

C. Harassment Based on other Protected Categories

Harassment based on the race, color, age, religion, national origin, citizenship, disability, sexual orientation, or veteran status of an applicant or employee is also prohibited at NSU. As with sexual harassment, harassment based on any of these categories may include verbal, nonverbal, or physical conduct.

Examples of actions that may constitute harassment in violation of this policy include racial or ethnic epithets, slurs, jokes, or negative stereotyping. Taunting or displaying written materials or communications demonstrating hostility toward a person because of his or her race, color, age, religion, national origin, citizenship, disability, sexual orientation, or veteran status are other examples of prohibited conduct.

While all unwelcome conduct of a discriminatory nature may not rise to the level of constituting illegal harassment, NSU's policy seeks to prevent all such conduct. For example, while one racial joke may not constitute illegal racial harassment, it is prohibited. NSU policy seeks to prevent all discriminatory conduct based on race, color, gender, age, religion, national origin, citizenship, disability, sexual orientation, or veteran status.

D. Retaliation

NSU does not condone or authorize any kind of retaliation against any applicant or employee who has made a good faith report of conduct which he or she believes may constitute harassment, discrimination or retaliation, opposed any prohibited discriminatory practice, or who has participated in any manner in an investigation or other proceeding about a prohibited discriminatory practice.

Employment decisions about an applicant or employee who has reported possible harassment, discrimination, or retaliation will not be based on the fact that the person has submitted a complaint. Employment decisions should be based only on legitimate business considerations such as performance. Discriminatory verbal, nonverbal, or physical conduct should not be directed at any applicant or employee because of any protected activity.

II. Reporting Procedures

An applicant or employee who believes that they may be the victim of sexual harassment, discrimination or retaliation has an obligation to report it to either the Director of Human Resources or one of the Confidential Advisors listed below:

Dr. Marilyn Kilgen – extension 4710 or 4701

Ms. Darlene Adams – extension 4022

Ms. Lisa Duet - extension 4017

Ms. Sabrina Laurent – 4470

Dr. Krisandra Guidry – extension 4216

Dr. Lane Brigham – extension 4728

Dr. James Stewart – extension 4586

Mr. Shelby Hypolite – extension 4083

Ms. Bea Wallace – extension 4082

No employee is required to report or make a complaint of harassment, discrimination, or retaliation to the person who is engaging in the problematic conduct.

To insure that situations that may involve harassment, discrimination, or retaliation are handled appropriately, any administrator or supervisor who is a recipient of a complaint or report of possible violation of the policy will immediately notify the Director of Human Resources for advice and assistance on how to respond to the complaint.

Any employee who becomes aware of any conduct that he or she believes may constitute harassment, discrimination, or retaliation has a similar obligation to report that conduct regardless of whether he or she is personally involved in the conduct and regardless of whether the conduct involves other employees or students, vendors, or others in the work environment.

III. Investigation Procedures

- A.** The individual receiving the complaint will report it, either based on her own notes or on notes prepared by the victim, to the vice president who is in the reporting line of the harasser. The victim's name need not be revealed, but enough of the facts of the case must be given to allow the harasser to respond. (It is understood that the words "victim" or "harasser" are to be preceded by the word "alleged".)
- B.** The appropriate vice president will contact the harasser's immediate supervisor, as well as that person's supervisor or a peer of the harasser's supervisor and will relay the facts of the complaint. For example, if the harasser is a faculty member, the department chair and the dean are the two persons who will be so contacted. If the harasser is a department head, then the dean and a fellow dean will be contacted.
- C.** The two-person team will confront the harasser with the reported complaint, and will receive the harasser's response. The immediate supervisor must inform him or her that the University has begun the investigative process.
- D.** The immediate supervisor will also warn the harasser that they are not to retaliate against nor have any contact with the person alleging the complaint or witnesses.
- E.** The team will relay the harasser's response to the complaint to the vice president, having taken care to preserve the facts of the response in their own notes (approved-for correctness by the harasser's signature) or in notes prepared by the harasser.
- F.** The vice president, after consultation with another vice president or the President, will weigh the facts as given by the victim and the harasser and recommend whether or not the University should proceed to a formal grievance.
- G.** If the alleged complaint is found to be with merit, based on a preponderance of the evidence, it will be recommended that the University proceed against the harasser,

and the victim will be asked to testify. The harasser will be offered a hearing assured of due process.

- H.** If the alleged complaint is found to be without merit, it will be recommended that the University not proceed against the harasser.
- I.** The confidential advisor or the appropriate Human Resources representative will then receive the recommendation and convey it to the victim.
- J.** The immediate supervisor of the harasser will inform the harasser of the recommendation.
- K.** If the complaint is found to have merit, it is then referred to The University Anti-Discrimination Committee, appointed by the President, will hold hearings to discuss the complaint. If the hearing upholds the victim's complaint, then a full range of sanctions must be available to allow the judging body to choose an appropriate disciplinary action to recommend to the President. Among such measures are suspension with pay, suspension without pay, demotion, removal of tenure and dismissal. For complaints involving Civil Service employees, the University will follow Civil Service Rules & Regulations with regards to Adverse/Disciplinary Actions. For complaints involving students in a non-employment capacity, the procedures outlined in the Code of Student Conduct will apply.
- L.** Within five (5) days following the conclusion of its investigation and hearing, the University Anti-Discrimination Committee will forward its findings and recommendation for action to the President or his designee. When the recommendation concerns a classified employee, the designee will be the Director of Human Resources & Appointing Authority. Within fifteen (15) working days, the President or his designee will review the Committee's recommendation and determine an appropriate course of action. The decision will be communicated in writing to the victim, harasser, and the harasser's immediate supervisor and their supervisor.