

Nicholls State University

Policy Prohibiting Workplace Discrimination, Harassment, & Retaliation

Nicholls State University (Nicholls) is committed to maintaining an environment free from any type of discrimination, harassment, and retaliation including retaliation for whistle blowing. In furtherance of that commitment, Nicholls has adopted this policy forbidding discrimination, harassment, and retaliation of any kind against any applicant, employee, student, venter, or visitor of Nicholls. This policy forbids discrimination, harassment, and retaliation of any kind by or against any applicant, employee, student, or any other individual on the basis of race, color, gender, religion, sexual orientation, national origin, disability, genetic information, age, and veteran or retirement status.

It is the policy of Nicholls State University to be an equal opportunity employer. The policies and procedures comply with the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Executive Order 11246 of 1965, Title IX of the Education Amendments of 1972, the Age Discrimination in Employment Act of 1967, the Immigration and Reform Act of 1990, the 1993 Family and Medical Leave Act, Section 501, 503, and 505 of the Rehabilitation Act of 1973; Title I and Title V of the Americans with Disabilities Act of 1990; and all Civil Rights Laws of the State of Louisiana; the Civil Rights Act of 1991, and Title II of the Genetic Information Nondiscrimination Act of 2008.

Therefore, no one will be discriminated against either in the attainment of educational goals or objectives and in the administration of personnel policies and procedures. In keeping with this policy the University will recruit, hire, train, and promote persons in all job titles without regard to race, color, gender, religion, sexual orientation, national origin, disability, genetic information,

age, and veteran or retirement status. All employment decisions will be made in such a way as to further the principle of equal employment opportunity. Steps will be taken to assure that only valid requirements are imposed for promotional opportunities. Further, personnel actions such as compensation, benefits, transfers, layoffs, return from layoff, company-sponsored training, education, tuition assistance, and social and recreational programs, will be administered without regard to race, color, gender, religion, sexual orientation, national origin, disability, genetic information, age, and veteran or retirement status. Women and minorities will be recruited for employment and included in management training programs. In addition, the University will take affirmative action to employ and advance in employment, qualified individuals with disabilities in all job titles.

I. DEFINITIONS

- A. Complaint: Allegations of discrimination, harassment, and/or retaliation, filed in good faith and in accordance with established procedures.
- B. Discrimination: Inequitable treatment of an individual based on his or her protected characteristics or status rather than individual merit.
- C. Harassment: Unwelcome conduct directed against a person based on one or more of a person's protected characteristics or status which is so severe or pervasive that it creates an intimidating, hostile, or offensive environment.
- D. Protected Characteristics/Status: race, color, gender, religion, sexual orientation, national origin, disability, genetic information, age, and veteran or retirement status.

E. Retaliation: Any adverse action taken against an individual as the result of a complaint of discrimination or harassment or who may have participated in an investigation of discrimination or harassment. This includes overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or group exercising rights under this policy.

II. PROHIBITED CONDUCT

A. Discrimination

1. Discrimination in the workplace or learning environment involves taking adverse action against, or preferential treatment of an individual because of his protected status.

2. Examples include:

a. Denying or granting promotions or other advancement opportunities based on an individual's protected status.

b. Granting preference in education or employment based on an individual's protected status.

c. Assigning grades based on an individual's protected status; Making work assignments based on an individual's protected status.

d. Denial of leave based on an individual's protected status.

B. Harassment

1. Harassment in the working or learning environment consists of unwelcome and objectively offensive physical, verbal, or nonverbal conduct that unreasonably interferes with an individual's work or educational activities and/or which creates an intimidating, hostile, or offensive working or learning environment.

2. Examples include:

- a. Verbal threats, offensive jokes, epithets, derogatory comments, ridicule, mockery, or slurs.
- b. Gratuitous visual displays such as posters, photographs, cartoons, drawings, or gestures.
- c. Unwanted physical contact such as touching, intimidation, or blocking normal movement.

C. Sexual Harassment

1. Sexual harassment is a form of discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature when:

- a. Submission to that conduct is made a term or condition of employment.
- b. Submission to, or rejection of, that conduct is used as a basis for employment decisions affecting the employee.
- c. That conduct has the effect of unreasonably interfering with an individual's work performance or of creating a hostile, offensive, or intimidating work environment.

2. Examples include:

- a. Making unwanted sexual advances including touching, kissing, hugging, or massaging.
- b. Making sexual gestures or visual displays such as leering.
- c. Offering employment or academic benefits in exchange for sexual favors.

- d. Gratuitous displays of sexually suggestive objects, pictures, or cartoons or drawings.
- e. Sending suggestive or obscene letters, notes, or invitations.
- f. Engaging in graphic sexual commentary about an individual's body.

D. Retaliation

1. Retaliation includes overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or group exercising rights under this policy.
2. No applicant, employee, student, or other individual who complains about a violation of policy or who participates in an investigation of a complaint made pursuant to UL System policies shall be subject to retaliation in any form. Retaliation may exist even when the underlying complaint is without merit.
3. Some examples of retaliation claims may arise when an individual has:
 - a. initiated an internal complaint of discrimination or harassment.
 - b. filed a claim of discrimination.
 - c. requested an accommodation for a disability.
 - d. filed a worker's compensation claim following a work-related injury.
 - e. requested leave under the Family and Medical Leave Act.
 - f. filed a safety or environmental related complaint with state and/or federal oversight agencies.
 - g. filed a "whistleblower's" claim alleging that the employer engaged in fraud, corruption, or other suspected wrongful activity.

4. Some of the most obvious types of retaliation are denial of promotion, refusal to hire, denial of job benefits, demotion, suspension, and termination. Other actions include threats, reprimands, negative evaluations, salary reductions, change in job assignments, harassment or hostile behavior, or attitudes toward the complainant.

5. Nicholls State University will adhere to the guidelines established in the University of Louisiana System Policy Number: M-(12), *Preventing and Addressing Retaliation*.

III. REPORTING REQUIREMENTS

A. Any applicant, employee, student, or other individual who experiences any conduct that he or she believes may constitute harassment, discrimination, or retaliation has an obligation to report it to the Director of Human Resources/Title IX Coordinator, his or her supervisor, or the Dean of Student Services/Title IX Coordinator. No individual is required to report or make a complaint of harassment, discrimination, or retaliation to the person who is engaging in the problematic conduct.

B. Any individual 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 involved other employees, students, vendors, or others in the work environment.

C. 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/Title IX Coordinator for advice and assistance on how to respond to the complaint.

IV. INVESTIGATION PROCEDURES

- A. The Human Resources Director/Title IX Coordinator and a supervisor within the alleged violator's chain of command (if the supervisor is also a vice president or higher, then the Human Resources Director may select another employee to assist with the investigation) will coordinate and conduct an initial investigation as deemed appropriate to the circumstances of the complaint. In instances where students are involved, the Human Resources Director/Title IX Coordinator, will confer with the Dean of Student Services/Title IX Coordinator, to assure appropriate procedures are coordinated. The Human Resource Director/Title IX Coordinator may delegate the investigation proceedings to another qualified individual(s) within his or her chain of command.
- B. At a minimum, the Human Resources Director/Title IX Coordinator and a supervisor or selected employee will interview both the alleged victim and the alleged violator. Others may also be questioned as deemed appropriate.
- C. The alleged violator will be warned that he or she is not to retaliate. Depending on the circumstances, it may be appropriate to separate or limit contact between parties.
- D. Following the completion of the initial investigation, the Human Resources Director/Title IX Coordinator will provide both the alleged victim and the alleged violator with a report of the findings. The Human Resources Director/Title IX Coordinator may also propose a non-disciplinary resolution to both parties for consideration.

E. Should either the alleged victim or the alleged violator be unsatisfied with the findings of the investigation, or the non-disciplinary resolution proposed by the Human Resources Director/Title IX Coordinator, he or she may then pursue the matter by following the grievance process:

1. Classified employees should refer to section 4.24 of the Nicholls Policy & Procedure Manual.
2. Faculty should refer to section 2.15.4 of the Faculty Grievance Policy.
3. Unclassified staff should refer to section 3.9 of the Nicholls Policy & Procedure Manual.

V. SANCTIONS

A. Anyone who violates this workplace discrimination, harassment, and/or retaliation policy is subject to disciplinary action.

B. Following an appropriate investigation and subject to the procedures which are part of the policies governing the relevant type of appointment at the University, the faculty, staff, student, or other individual may be subject to sanctions, including reprimand, probation, suspension, demotion, reassignment, termination, and expulsion.

Revised 3/2012