

MISSOURI SOUTHERN STATE UNIVERSITY POLICY

Policy #:		Effective:		Category:	
Name:	Sex Discrimination and Sexual Harassment Policy				

1.0 PURPOSE

The University is committed to fostering a working and learning environment where all individuals are treated fairly and with complete respect. In keeping with that commitment, the University considers all forms of Sex Discrimination (as defined below) to constitute a serious offense. Sex Discrimination by or against any faculty member, staff member, student, applicant for employment, customer, third-party contractor, guest, or visitor (collectively the "University Community") is strictly prohibited.

Sexual Harassment (as defined below) is always consistent with the expectations of the University and may constitute a form of Sex Discrimination in violation of this Policy. Sexual Harassment also includes Sexual Violence/Assault (as defined below).

It is a violation of this Policy to retaliate against any member of the University Community who reports or assists in making a complaint of Sex Discrimination or who participates in the investigation of a complaint in any way

2.0 SCOPE

This Policy applies to all members of the University Community,

3.0 POLICY

The prohibition on Sex Discrimination extends to all of the University's programs and activities, including but not limited to, admissions, employment, academics, athletics, housing, and student services.

The University will thoroughly and promptly investigate all complaints of Sex Discrimination. If an investigation confirms that Sex Discrimination has occurred, the University will take prompt and appropriate remedial action to address the discrimination, eliminate any hostile environment, prevent its recurrence, and correct its effects on the victim and others, if applicable.

Title IX Statement

It is the policy of the University to comply with Title IX of the Education Amendments of 1972 and their implementing regulations, which prohibit Sex Discrimination in the University's educational programs and activities. Title IX and its implementing regulations also prohibit retaliation for asserting claims of Sex Discrimination. The University has designated the following Title IX Coordinator to coordinate its compliance with Title IX and to receive inquiries regarding Title IX, including complaints of Sex Discrimination.

Dr. Ron Mitchell
Dean of Students/Title IX Coordinator
Billingsly Student Center 347
Tel: 417-625-9531.
Email: mitchell-r@mssu.edu

A person may obtain additional information on Title IX, and may also file a complaint of Sex Discrimination, with the U.S. Department of Education's Office for Civil Rights by visiting www2.ed.gov/about/offices/list/ocr/complaintintro.html or by calling 1-800-421-3481.

Sex Discrimination

The University prohibits discrimination on the basis of sex (“Sex Discrimination”) in all the University’s programs and activities. In compliance with Title IX and its implementing regulations, the University has implemented this Policy to eliminate, prevent, and address conduct that constitutes Sex Discrimination. Conduct, such as Sexual Harassment, constitutes prohibited Sex Discrimination when it denies or limits a person’s ability to participate in or benefit from the University’s programs and activities based on sex. Sexual Harassment denies or limits a person’s ability to participate in or benefit from the University’s programs and activities, when:

- submission to the conduct is made either an explicit or implicit term or condition of an individual’s employment or education; or
- submission to or rejection of the conduct by an individual is used as the basis for employment or academic decisions affecting that individual; or
- the harassment substantially interferes with an individual’s work or academic performance or creates an intimidating, hostile or offensive working or learning environment.

Notwithstanding the aforementioned definition of Sex Discrimination, the University reserves the right to resolve, investigate, and/or take disciplinary action against any improper conduct of a sexual nature, including but not limited to Sexual Harassment, even though such conduct is not of the type, severity, or pervasiveness that constitutes Sex Discrimination under this Policy.

Definition of Sexual Harassment

Sexual Harassment is any unwelcome conduct of a sexual nature. Sexual Harassment constitutes Sex Discrimination when it denies or limits a person’s ability to participate in or benefit from the University’s programs and activities. Prohibited Sexual Harassment is a serious violation of University Policy and is incompatible with the University’s belief that employees and students should be treated with respect and dignity.

Sexual Harassment includes unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, physical, or visual conduct of a sexual nature, such as:

- Pressure for a dating, romantic, or intimate relationship
- Touching, kissing, hugging, or massaging
- Pressure for sexual activity
- Unnecessary references to parts of the body
- Sexual innuendos or sexual humor
- Obscene gestures
- Sexual graffiti, pictures, or posters
- Sexually explicit profanity
- Asking about, or telling about, sexual fantasies
- E-mail and Internet use that violates this Policy
- Sexual violence (as defined below)
- Aiding and abetting another person in committing Sex Discrimination
- Retaliating against any person who make a report of Sex Discrimination or who participates in the investigation of a report in any way (such as a witness).

Definition of Sexual Violence/Assault

Sexual Violence/Assault is a severe form of Sexual Harassment that may also constitute a crime in violation of federal, state, or local law. Sexual Violence/Assault includes physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to a physical or mental disability, due to the use of drugs and/or alcohol, or due to the victim’s youth (i.e., they are below the legal age of consent). A single

instance of Sexual Violence/Assault is sufficiently severe to deny or limit a person's ability to participate in or benefit from the University's programs or activities, and, therefore, constitutes prohibited Sex Discrimination. Sexual Violence/Assault is further defined and addressed in the University's Sexual Violence/Assault Policy.

Reporting

All University employees (administrators, faculty, and staff) have a duty to file a report when they believe, or receive information indicating, that a member of the University Community has been subjected to Sex Discrimination. The employee should report to the Dean of Students/Title IX Coordinator, Billingsly 347, Tel: 417-625-9351. Such a report must be made promptly. The only employees exempted from this mandatory reporting obligation are licensed counselors, licensed medical professionals, and their administrative/support staff responsible for scheduling appointments ("Confidential Reporters").

Students and other members of the University Community who believe they or another member of the University Community has been subjected to Sex Discrimination are encouraged to make a report to the Dean of Students/Title IX Coordinator, Billingsly 347, Tel: 417-625-9351. Although there is no statute of limitations for alleged victims of Sex Discrimination to make reports, the University urges alleged victims of Sex Discrimination to make reports promptly. Delayed reporting may limit the University's ability to thoroughly investigate the report.

Any member of the University Community who believes they have been subjected to Sex Discrimination that constitutes a crime are encouraged to also make a complaint to University police or local law enforcement. If requested, the University will assist the complainant in notifying the appropriate law enforcement authorities. In the event of an emergency, please contact 911.

The University's Sexual Violence/Assault Policy provides further reporting guidance and recommendations for members of the University Community who are alleged victims of Sexual Violence/Assault.

Investigation

All reports of Sex Discrimination will be promptly and thoroughly investigated by an investigator appointed by the University. The investigator will discharge his or her obligations fairly and impartially. If the investigator determines he or she cannot fairly and impartially investigate a report due to a conflict of interest, the investigator will recuse himself or herself and a new investigator will be appointed.

The investigator will commence the investigation as soon as practicable, but not later than seven (7) days after a report is made. The pendency of a criminal investigation does not relieve the University of its obligation to conduct an investigation. However, the University's investigation may be delayed temporarily to avoid interfering with a criminal investigation.

The purpose of the investigation is to determine whether it is more likely than not that the alleged behavior occurred and, if so, whether it constitutes Sex Discrimination. During the course of the investigation, the investigator may receive counsel from University administrators, the University's attorneys, or other parties as needed.

During the investigation, the complainant (i.e., the alleged victim of the Sex Discrimination) will have the opportunity to describe his or her allegations and present supporting witnesses or other evidence. The respondent (i.e., the alleged perpetrator of the Sex Discrimination) will have the opportunity to respond to the allegations and present supporting witnesses or other evidence. The investigator will review the statements and evidence presented and may, depending on the circumstances, interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the complaint. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information.

During the investigation process, the complainant and respondent will have equal rights. They include: equal opportunity to identify and have considered witnesses and other relevant evidence; similar and timely access to all information considered by the investigator; equal opportunity to review any statements or evidence provided by the other party; equal access to review and comment on information independently developed by the investigator.

During the investigation process, both a complainant and a respondent may ask a support person to accompany her or him to meetings with the investigator. In cases involving multiple complainants or respondents, the support person cannot be another complainant or respondent. The support person does not serve as an advocate on behalf of the complainant or respondent.

During the investigation, the University will make reasonable and appropriate efforts to preserve an individual's privacy and limit disclosure of information to those whose participation is necessary for a fair and thorough investigation and resolution. The University cannot guarantee the confidentiality of any report of Sex Discrimination unless the report is made to a Confidential Reporter, in which case the report will not be forwarded for investigation without the reporting party's consent, unless otherwise required by law.

In the event an alleged victim requests confidentiality after making a non-confidential report, or requests that an investigation not proceed, the University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name not be disclosed to the alleged perpetrator, the University's ability to respond may be limited. The University reserves the right to initiate and proceed with an investigation despite a complainant's request for confidentiality in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the University Community.

Investigations of alleged misconduct by a student will be further informed and controlled by procedures specified in the Code of Student Conduct.

Resolution

At the conclusion of the investigation, the investigator will prepare a written report. The written report will explain the scope of the investigation, identify findings of fact, and state whether any allegations were found to be substantiated by a preponderance of the evidence.

If the written report determines that Sex Discrimination occurred, the investigator shall include in the written report those steps necessary to maintain an environment free from Sex Discrimination and to protect the safety and well-being of the complainant and other members of the University Community. Such actions will also include reasonable steps to correct the effects of such conduct on the complainant and others and to prevent the recurrence of Sex Discrimination and retaliation. Examples of such action include: no-contact orders, classroom reassignment, the provision of counseling or other support services, training, and referral of the perpetrator for discipline to be imposed pursuant to applicable procedures depending on the status of the alleged perpetrator.

The complainant and the respondent will receive a copy of the written report within three (3) days of its completion. If necessary, the version of the written report provided to the complainant and/or respondent will be redacted to ensure that information concerning any remedial and/or disciplinary measures is disclosed in a manner consistent with federal law.

Notwithstanding the foregoing, in cases involving alleged misconduct by a student, notice of resolution will be provided as specified in the Code of Student Conduct.

Interim Measures

At any time during the investigation, the investigator, in consultation with the Title IX Coordinator/Director of Human Resources and appropriate administrators, may determine that interim remedies or protections for the parties involved or witnesses are appropriate. These interim remedies may include separating the parties, placing limitations on contact between the parties, suspension, or making alternative class-placement or workplace arrangements. Failure to comply with the terms of these interim remedies or protections constitutes a separate violation of this Policy.

Timing

The University will endeavor to conclude its investigation and resolution of the complaint within sixty (60) calendar days of receiving it. Both the complainant and the respondent will be given periodic updates regarding the status of the investigation.

Bad Faith Complaints

While the University encourages all good faith complaints of Sex Discrimination, the University has the responsibility to balance the rights of all parties. Therefore, if the University's investigation reveals that a complaint was knowingly false, the complaint will be dismissed and the person who filed the knowingly false complaint may be subject to discipline.

Academic Freedom

While the University is committed to the principles of free inquiry and free expression, conduct constituting Sex Discrimination is neither legally protected expression nor the proper exercise of academic freedom.

Sexual Violence/Assault Policy and Other Discipline Policies

This Policy is supplemented by the Sexual Violence/Assault Policy and other University policies pertaining to discipline. The provisions of these other policies apply by their terms except to the extent they are inconsistent with this Policy.

4.0 HISTORY

This Policy may be revised, edited, changed or removed at any time with or without notice to applicable individuals.

Initial Creation Date: xx/xx/xx

Requestor: Department

Author:

Review Date	Draft #	Change(s) Made	Changes	Change Date
	.01			

Approval Date	Vers #	Action Taken	Final Approval: Signed:
	1.0		

Revision Date	Vers #	Change(s) Made	Requested by:	Change Date
none				

5.0 INQUIRIES

Direct inquiries about this policy to:

Status:		Last Reviewed:		Policy Review Committee:		
Options:	Draft	In Progress	Under Review	Approved	Posted	Deleted

6.0 RELATED DOCUMENTS