



POLICY

Subject: **DISCRIMINATION, HARASSMENT, SEXUAL HARASSMENT, and SEXUAL VIOLENCE POLICY**

1.0 PURPOSE AND SUMMARY

Southern University (“the University”) is committed to maintaining a fair and unbiased environment for living, working and studying. The University aims to provide an environment that is free of discrimination and harassment, including sexual harassment and sexual violence. Discrimination and harassment in any form are not tolerated.

The university forbids discriminating or harassing conduct that is based on an individual's race, color, religion, sex, ethnicity, national origin or ancestry, age, physical or mental disability, sexual orientation, gender identity, gender expression, genetic information, veteran or military status, membership in Uniformed Services, and all other categories protected by applicable state and federal laws.

Discrimination on the basis of sex is unlawful under several federal and state laws, including Title IV, VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and 1974 134CFR, Part 106 and Louisiana Statutes, Louisiana Code of Ethics for State Employees.

Sexual violence is a form of sexual harassment. Sexual violence committed by students or employees, whether on or off campus, or by any individual on Southern University’s campus or within its programs or activities, violates this policy. State and federal laws also provide criminal penalties for those convicted of acts of sexual violence.

2.0 RESPONSIBILITY MATRIX

2.1 Procedure Responsibility

- 2.1.1 The Associate Vice President of Human Resources is responsible for the development and maintenance of this Policy.
- 2.1.2 The Associate Vice President of Human Resources or the Campus HR Director serves as the Human Resources Officer.
- 2.1.3 Employees are responsible for following the policy statements set forth in this policy.



2.1.4 Managers are responsible for following the policy statements set forth in this policy.

2.1.5 The Human Resources Officer or his/her designee will:

- inform the individual of the provisions of the harassment complaint procedures and provide a copy of the complaint procedure;
- inform the person against whom the complaint is brought, of its existence;
- obtain information and evidence, including the identity of any witnesses, from the complainant and the respondent;
- attempt to obtain information from the identified witnesses;
- maintain appropriate documentation; and
- disclose appropriate information to others only on a need-to-know basis consistent with state and federal law.
- During this process, the Human Resources Officer or his/her designee will keep the supervisor/administrator informed of the status of the complaint and will seek input from the appropriate supervisor/administrator when implementing corrective action.

3.0 DEFINITIONS

As used in this policy, the following terms have the indicated meaning and will be applicable in relation to the Discrimination and Harassment policy.

Discrimination

Discrimination is defined as an intentional or unintentional act that results in adverse treatment of a person based on race, color, gender, age, color, national origin, religion, creed, disability, veteran's status or sexual orientation gender identity or gender expression ("protected status").

Harassment

Harassment is defined as:

- Unwelcome verbal or physical conduct based on a person's race, sex (including sexual harassment), sexual orientation, ethnicity or national origin, religion, age, disabled status, or status as a disabled veteran or veteran of the Vietnam era when:
 - Such conduct has the purpose or effect of unreasonably interfering with the individual's work or educational performance;
 - Such conduct creates or has the intention of creating an intimidating, hostile, or offensive working and/or learning environment; or



- Such conduct unreasonably interferes with or limits one's ability to participate in or benefit from an educational program or activity.

Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature, when:

- Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment or status in a course, program or activity;
- Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual; or
- Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with or limiting one's ability to participate in or benefit from an educational program or activity.

Many kinds of behavior may fit within the preceding definition of sexual harassment. Speech and expressive conduct can also be sexual harassment. The following list of examples of sexual harassment is not exhaustive:

- sexual violence, including sexual assault, rape, sexual battery, and sexual coercion,
- threats or insinuations which lead the victim reasonably to believe that granting or denying sexual favors will affect her or his reputation, education, employment, advancement, or standing within the University,
- sexual advances, sexual propositions, or sexual demands which are not agreeable to the recipient,
- sexually explicit emails or text messages,
- sexual misconduct such as stalking, cyber stalking, recording or transmitting sexual images, and voyeurism,
- unwelcome and persistent sexually explicit statements or stories which are not legitimately related to employment duties, course content, research, or other University programs or activities,
- repeatedly using sexually degrading words or sounds to describe a person,
- unwanted and unnecessary touching, patting, hugging, or other physical contact, and
- recurring comments or questions about an individual's sexual prowess, sexual deficiencies, or sexual behavior.



Sexual violence

Sexual violence is a form of sexual harassment defined as sexual contact that occurs without the effective consent of an individual involved. Effective consent cannot be given by minors, those who are incapacitated as a result of drugs or alcohol, or those who are incapacitated or unconscious. An individual may also be unable to give consent due to an intellectual or other disability.

While it is not possible to list all circumstances that may constitute sexual violence, the following are some examples of conduct which may, depending upon the circumstances, constitute sexual violence:

- Unwanted physical touching
- Sexual assault (the threat of violence)
- Sexual battery (physical violence such as bruising or forceful detainment)
- Sexual coercion (harassment, bullying, or coercion of a sexual nature)
- Rape or coerced sexual acts (non-consensual penetration of any kind)

Sexual violence may occur regardless of the intention of the person engaging in the conduct. Sexual violence may occur regardless of whether the individuals involved are of the same or a different sex.

As used in this policy, the term sexual violence is broader than the statutory definitions for the crimes of sexual assault, sexual battery, sexual coercion, and rape which are also prohibited by this policy. Consequently, a person found not guilty of a crime of sexual violence, such as rape, could still be found to have violated the University's policy against sexual violence.

Other pertinent definitions:

1. **Age** – With respect to employment, individuals who are 40 years of age or older are protected from discrimination. There is no age threshold for educational programs or activities.
2. **Color** – Discrimination or harassment based on an individual's pigmentation, complexion, or skin shade or tone.
3. **Creed** – A well-formed and thought out set of beliefs held by more than one individual, not necessarily belief in a supreme being, unless the University can demonstrate that it is unable to reasonably accommodate an individual's religious observance or practice without undue hardship.



4. **Disability** – a person with a disability is any person who has a physical or mental impairment which substantially limits one or more major life activities; or has a record of such impairment; or is regarded as having such an impairment. A person with a disability must be able to perform the essential functions of the employment position or the academic program, with or without a reasonable accommodation.
5. **Gender** –An individual’s biological status of male or female.
6. **Gender Expression** -- The external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions.
7. **Gender Identity** – An individual’s psychological sense of self as a male or female.
8. **National Origin** –Discrimination or harassment against an individual because he or she comes from a particular place, because of his or her ethnicity or accent, or because it is believed that he or she has a particular ethnic background.
9. **Race** -- Discrimination or harassment based on racial or ethnic ancestry or based on a person’s physical characteristics associated with race, such as a person’s color, hair, facial features, height and weight.
10. **Religion** –All aspects of religious observance and practice, as well as belief, unless the University can demonstrate that it is unable to reasonably accommodate an individual’s religious observance or practice without undue hardship.
11. **Sexual Orientation** – A person’s sexual identity in relation to the gender to which they are attracted; the fact of being heterosexual, homosexual, or bisexual.
12. **Veteran’s Status** – Covered veterans include disabled veterans, special disabled veterans, veterans of the Vietnam era and other protected veterans as defined by federal and state law.
13. **Retaliation** – An adverse action taken against an individual because he/she in good faith, has reported allegations of harassment or discrimination or has participated in an investigation of alleged harassment or discrimination. Adverse action includes overt or covert acts of reprisal, interference, restraint, penalty, or intimidation.



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| Page | 6 of 10 |

4.0 POLICY

SCOPE

This Policy applies to all faculty, staff, administration, supervisors, employees, volunteers and visitors to campus. This includes guests, patrons, independent contractors, or clients of the University. This Policy prohibits sexual harassment and discrimination in any University education program or activity, which means all academic, educational, extracurricular, athletic and other programs.

Faculty, staff, administration, supervisors, employees, volunteers and students who feel that they have experienced discrimination and/or harassment while participating in off-campus programs and activities should immediately report such incidents to their Dean or Human Resources Director/Officer or his/her designee.

Non-University visitors, guests, patrons, independent contractors or clients who fail to address discrimination and/or harassment of which they know or should have known (by their personnel on premises under their control) of administrators, faculty, staff, supervisors, volunteers, students or employees may be subjected to whatever sanctions the relationship with the organization permits.

This policy is not meant to address differences in opinion regarding validity of employment determinations such as salary recommendations, promotion and tenure decisions, performance evaluations, hiring decisions, job classification decisions, transfers or reassignments, termination or layoff because of lack of work or elimination of a position, and normal supervisory counseling. Furthermore, this policy does not intend to address behaviors that do not constitute discriminatory harassment. Offensive workplace behavior that does not violate this policy should be addressed to the appropriate supervisor or office.

Academic Freedom and Freedom of Expression

This policy shall not be interpreted so as to constitute interference with academic freedom.

False and Malicious Accusations

Members of the Southern University community who make false and malicious complaints of discrimination or sexual harassment, as opposed to complaints which, even if erroneous, are made in good faith, will be subject to disciplinary action.

Supervisory Relationships

No individual who is in a position of authority over another, either in the employment or educational context, has the authority to discriminate against or harass others by virtue of his or her role. The University does not in any way, expressly or suggests; condone discrimination or



harassment by a person in a position of authority or a supervisor. Furthermore, a supervisor who does not appropriately handle reports or incidents of discrimination and/or harassment, or who does not report incidents about which he/she becomes aware to the Human Resources Director/Officer or his/her designee may be subject to disciplinary action.

Consensual Relationships In Regard to Sexual Harassment

Southern University very strongly discourages consensual relationships of an intimate or sexual nature between faculty or staff members and students because, among other reasons, they pose great potential for sexual harassment problems. This is particularly so with regard to students who are currently enrolled in a class taught by a faculty member or who are currently employed by a faculty or staff member in any capacity. Because the question of consent is complicated by the difference in power that exists between faculty/staff and students in such circumstances, and, the difference in power can give rise to the appearance of impropriety, faculty and staff are cautioned against entering into such relationships with students.

Processing of Complaints

Complaints and reports of discrimination or harassment should be conveyed as soon as possible after the incident(s) in order to be most effectively investigated. All reports and complaints of discrimination or harassment will be promptly investigated and appropriate action will be taken as expeditiously as possible. The University will make reasonable efforts to protect the rights of both the complainant and the respondent. The University will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses in a manner consistent with the University's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations required by law.

An informal complaint may be investigated without identifying the complainant, if in the judgment of the Human Resources Officer this would increase the likelihood of satisfactory resolution of the complaint. While confidentiality cannot be guaranteed, care will be taken to keep investigation discussions sufficiently broad to protect the complainant's identity when requested.

Southern University reserves the right to investigate and resolve a complaint or report of discrimination or harassment regardless of whether the complainant ultimately desires the University to pursue the complaint. In such cases, the parties shall be informed of the status of the investigation at reasonable times until the University's final disposition of the investigation.

Responsibility of Students and Employees

All students and employees should report any discrimination or harassment that they experience and/or observe to the Human Resources Officer or his/her designee. No student or employee should assume that an official of the University knows about a particular situation. The University encourages any person who feels he or she has been harassed to promptly report the incident to the Human Resources Officer or his/her designee. Any student, faculty member, or



employee who knows of, or receives a complaint of discrimination or harassment should report the information or complaint to a supervisor and/or Human Resources Officer or his/her designee.

Responsibility of Supervisors and Administrators

Any administrator or supervisor who knows of, or receives a complaint of discrimination or harassment must report the information or complaint to the Human Resources Officer or his/her designee in a timely manner.

Investigation and Resolution

The University's complaint process, outlined herein, is the procedure used to end inappropriate behavior and prevent any recurrence; to investigate the factual situation; and to facilitate resolution of complaints involving allegations of harassment.

Procedures

In the case of sexual harassment, if a complainant is able and feels safe, he or she should clearly explain to the alleged offender that the behavior is objectionable and request that it cease. If the complainant is not able or does not feel safe confronting the alleged offender, or the behavior does not stop, or if the complainant believes some adverse employment or educational consequences may result from the discussion, he or she should contact the Human Resources Officer or his/her designee. Administration or supervisory staff receiving a complaint must report the complaint to the Human Resources Officer. The Human Resources Officer must be contacted in order to initiate a complaint. The complaint should be brought as soon as possible after the most recent incident.

Investigative Data

During the investigation, the Human Resources Officer or his/her designee will keep private the information gathered during the investigation to the extent permitted by state and federal law. The Human Resources Officer or his/her designee shall exercise due care in sharing identifiable information about students, staff or faculty.

Summary Action

The President/Campus Chancellor or his/her designee may impose an administrative summary suspension prior to the completion of the investigation and resolution of a complaint. However, an administrative suspension may be imposed only when, in the judgment of the President/Campus Chancellor, or his/her designee, the accused individual's presence on campus would constitute a threat to the safety and well-being of members of the campus community. During the administrative suspension, the accused individual may not enter the campus without obtaining prior permission from the Human Resources Officer.



University Action

The amount of time needed to conduct an investigation will depend in part on the nature of the allegation(s) and the evidence to be investigated (e.g., the number and/or availability of witnesses involved). Within 60 days of receipt of the complaint, the Human Resources Officer or his/her designee will provide notice of the outcome of the investigation or will advise the parties of the additional estimated amount of time needed for the investigation. Upon conclusion, Human Resources Officer or his/her designee will notify the complainant and respondent, in writing, of the results of the investigation. In the event the investigation reveals that sexual harassment, or other inappropriate or unprofessional conduct (even if not unlawful) has occurred, disciplinary action may be taken by the University. Written notice to parties relating to discipline, resolutions, and/or final dispositions is deemed to be official correspondence from the University. The University will take the appropriate remedial action based on results of the investigation and will follow up as appropriate to ensure that the remedial action is effective. Complainants are encouraged to report any reoccurrences of conduct that were found to violate this policy.

Right to Appeal

Either party shall have the right to appeal the outcome of Human Resources Director/Officer or his/her designee investigation and decision to the President/Campus Chancellor pursuant to this policy. In exercising the right of appeal to the President/Campus Chancellor as provided by this procedure, a written appeal must be received by the Office of the President/Campus Chancellor within ten (10) working days after the date of the written notification of the decision that is being appealed. The President/Campus Chancellor or his/her designee may in his/her sole discretion extend the time for an appeal. The President/Campus Chancellor or his/her designee may receive additional information if he/she believes such information would aid in the appeal. A decision by the President/Campus Chancellor or his/her designee will be made within a reasonable time and the Human Resources Director/Officer, the complainant, and the respondent will be notified in writing of the decision on the appeal. During the time of appeal and review, disciplinary action, if any, taken as a result of the original complaint, may be implemented and enforced.

Prohibition against Retaliation

Anyone who, in good faith, reports what s/he believes to be harassment, or who participates or cooperates in any investigation, will not be subjected to retaliation. Anyone who believes he or she has been the victim of retaliation for reporting harassment or participating or cooperating in an investigation should immediately contact the Human Resources Director/Officer or his/her designee. Any person found to have retaliated against a person who has participated or cooperated in an investigation will be in violation of this policy and will be subject to disciplinary action.



Violations of this Policy

Southern University will not tolerate discrimination or harassment of its faculty, staff, administrators, supervisors, students, visitors, employees and/or volunteers and will investigate all allegations. Where harassment is found, steps will be taken to end it immediately. In those instances where it is determined that an individual has harassed another, that individual will be subject to appropriate discipline. The level of discipline will depend on the severity of the harassment and may include, but is not limited to, probation or termination.

To make deliberate false accusations of discrimination or harassment, violates this policy. In such instances, the complainant will be subject to disciplinary action. However, failure to prove a claim of discrimination or harassment does not constitute proof of a false and/or malicious accusation.

Other violations of this policy may include, but are not limited to, the following:

- Retaliation against a person who has made a report or filed a complaint alleging harassment or participated as a witness in a harassment investigation.
- Disregarding or delaying investigation of allegations of harassment, when responsibility for reporting discrimination or harassment are part of one's supervisory duties.

5.0 ATTACHMENTS

None