



Document History

Responsible Administrator: EEO / ADA Officer

Responsible Office: EEO/ADA Office

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Southeastern Louisiana University Discrimination & Harassment Policy

Policy Statement

Southeastern Louisiana University is committed to maintaining an educational and workplace environment free of any type of discrimination and/or harassment which is illegal and which will not be tolerated. In furtherance of that commitment, this policy forbids discrimination and/or harassment of any kind by or against any applicant, employee, student, or any other individual/group of individuals on the basis of race, color, sex, religion, sexual orientation, gender identity, national origin, disability, genetic information, age, veteran status, political affiliation, citizenship, or retirement status. Cases involving allegations of discrimination and/or harassment by students are covered by the University Code of Conduct, Article IV: Proscribed Conduct. B. Conduct. 3. Abusive Conduct, and are handled as such by the Office of Student Advocacy and Accountability. See:

http://www.southeastern.edu/admin/stu_affairs/handbook/assets/2017_2018_student_handbook_web.pdf.

Purpose of Policy

This policy is part of our commitment to comply with the requirements and objectives set forth by Presidential Executive Order 11246, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Veterans Employment and Readjustment Act of 1972, the Equal Employment Opportunity Act of 1972, Section 901 of Title IX of the Educational Amendments of 1972, the Rehabilitation Act of 1973, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, the Americans with Disabilities Act of 1990, the Civil Rights Act of 1991, the Genetic Information Nondiscrimination Act of 2008, Louisiana Executive Order 13, all as amended, and Louisiana Executive Order JBE 16-11.

Applicability

This policy does not apply if a student/s feels as though they are a victim of sexual harassment or sexual discrimination. Such situations are covered under the Sexual Misconduct Policy of the University located at www.southeastern.edu/resources/policies/assets/sexual_misconduct.pdf and students are encouraged to utilize the complaint process set forth within that policy. All other cases of harassment and discrimination are covered under this policy.

Inquiries regarding compliance with Title IX may be directed to the University's EEO/ADA & Title IX Compliance Officer or the Director of the Office for Civil Rights, U.S. Department of Education.

Definitions

- A. **Complaint:** Allegations of discrimination and/or harassment filed in good faith and in accordance with established procedures.
- B. **Discrimination:** Taking adverse action against, or offering preferential treatment to, an individual/group of individuals based on protected characteristics or status rather than individual merit.

- C. **Harassment:** Unwelcome and objectively offensive physical, verbal, or nonverbal conduct regarding the protected characteristics/status of others, which is so severe or pervasive that it creates an intimidating, hostile or offensive environment and/or interferes with an individual/group of individuals' work or educational activities. This conduct need not have intent to harm; if severe enough, it does not have to consist of repeated incidents; and it need not be directed against a specific individual/group of individuals.
- D. **Sexual Harassment:** Unwelcome conduct of a sexual nature when (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual/group of individuals' employment or education; (ii) submission to or rejection of such conduct by an individual/group of individuals is used as the basis for a decision affecting that individual/group of individuals' employment or education; or (iii) such conduct has the purpose or effect of unreasonably interfering with an individual/group of individuals' employment or education, or creating an intimidating, hostile, or offensive employment or educational environment, and has no legitimate relationship to employment, the subject matter of a course, educational programs (including, but not limited to, athletics) or academic research. Sexual harassment also includes non-sexual harassment or discrimination of an individual/group of individuals because of the individual/group of individuals' sex and/or gender, including harassment based on the person's nonconformity with gender stereotypes.
- E. **Protected Characteristics/Status:** race, color, sex, religion, sexual orientation, national origin, disability, genetic information, age, veteran status or retirement status.
- F. **Retaliation:** Any adverse action taken against an individual/group of individuals who has/have complained about discrimination, harassment or other unlawful practice, or who may have participated in a court or administrative investigation, hearing or litigation relating to workplace conduct or discrimination or harassment by filing a charge or acting as a witness. Retaliation is prohibited under Title IX as well as University policy. This includes overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual/group of individuals exercising rights under this policy. To establish a claim of retaliation, the individual/group of individuals need not be a member of a protected group or class. Individuals/groups of individuals who assist others in raising a complaint of prohibited discrimination and/or harassment by offering advice and moral support, or by giving testimony or evidence in support of a complaint, are similarly protected. This protection exists even if the complaint is eventually dismissed or found to be lacking in merit. The process for filing a complaint of retaliation is set forth in the University's Retaliation Policy.

Policy Procedure

I. Prohibited Conduct

A. Discrimination

Examples include but are not limited to:

- Denying or granting employment promotions or other advancement opportunities based on an individual/group of individuals' protected characteristics/status;
- Granting/denying preference in education, educational programs or employment based on an individual/group of individuals' protected characteristics/status;
- Excluding any individual/group of individuals, from participation in, or denying the benefits of, any education program or activity, based upon their protected characteristic or status;
- Assigning grades based on an individual/group of individuals' protected characteristics/status;
- Making work assignments based on an individual/group of individuals' protected characteristics/status;

- Denial of leave based on an individual/group of individuals' protected characteristics/status.

B. Harassment

Examples include but are not limited to:

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

C. Sexual Harassment

Examples include but are not limited to:

- Making unwanted sexual advances, including touching, kissing, hugging, or massaging;
- Making sexual gestures or visual displays such as leering;
- Offering employment or academic benefits in exchange for sexual favors;
- Gratuitous displays of sexually suggestive objects, pictures, cartoons, or drawings;
- Sending suggestive or obscene letters, notes, or invitations;
- Engaging in graphic sexual commentary about an individual's body.

II. Establishing and Investigating Complaints

A. Evidence

1. Direct Evidence: In order to establish direct evidence of discrimination and/or harassment, there must be proof that the adverse action or preferential treatment was a result of a protected category/status. Such evidence is any written or verbal statement by an official that he/she took actions against, or offered preferential treatment to, an individual/group of individuals because of their protected category/status.
2. Circumstantial Evidence: A violation can also be established if there is circumstantial evidence of discrimination and/or harassment. Typically this link can be demonstrated based on the following:
 - Suspicious timing of the adverse action against, or preferential treatment of, the individual/group of individuals; ambiguous statements by the accused; an accused's conduct toward other employees/students in the same protected group as the individual/group of individuals; and "other bits and pieces" of evidence "from which an inference of discriminatory intent and/or harassment might be drawn";
 - Evidence that other individuals similarly situated to the individual/group of individuals but are not members of the same protected group "received systematically better treatment"; and
 - Evidence that the individual was qualified for a position, but was replaced by or passed over for the position in favor of someone not in the same protected group as the individual and that the employer's stated reason for not choosing the individual was pre-textual.
3. Non-discriminatory/Non-Harassing Reason: Discrimination and/or harassment can be established if the entity fails to provide evidence of a legitimate and non-retaliatory/non-harassing reason for adverse employment actions/adverse educational actions/preferential treatment. Common legitimate reasons for adverse employment actions/adverse educational actions/preferential treatment include poor job performance, inadequate qualifications for the position sought; violation of work rules or insubordination; poor academic performance, and violation of university academic policies, rules or regulations.

4. Pretext to Motive: Even if an entity produces evidence of a legitimate reason for the adverse action/preferential treatment, a violation can still be found if the reason is a pretext to hide actual motive. This can be proved through evidence that an individual/group of individuals was treated differently from similarly situated individuals or subjected to heightened scrutiny.
5. Standard of Review: The preponderance of the evidence standard will be used for investigation allegations of discrimination and harassment.

B. Confidentiality

The University will respect the confidentiality of all parties and witnesses as much as possible, consistent with the University's legal obligations. Breaches of confidentiality or privacy committed by anyone receiving a report of harassment or discrimination or investigating the report of same may be considered a separate violation of the Policy and may result in the disciplinary sanctions.

C. Interim Measures

Upon receiving a report of harassment or discrimination Southeastern will immediately offer any interim measures appropriate to the circumstances – including, but not limited to, temporary changes in classes, residence hall assignments, work assignments, etc. Both parties will be advised regarding the University policy on retaliation.

D. Reporting and Investigation Process

Each of the Universities that comprise the University of Louisiana System (ULS) shall designate an EEO/ADA/Title IX Compliance Officer. The responsibilities of the Compliance Officer for each University include receiving and investigation of complaints of unlawful discrimination/harassment at the University. The name and contact information for the individual designated by the University as its Compliance Officer is as follows:

Gene Pregeant
University Compliance Officer
Rm. 120, Dyson Hall
SLU Box 10328
985/549-5888
gpregeant@selu.edu

The Compliance Officer can serve in other capacities or roles within the University, but will report directly to the respective University President regarding all complaints of unlawful discrimination/harassment.

If a complaint of unlawful discrimination/harassment is against the Compliance Officer, the complainant shall complain directly to the University President. Complaints of unlawful discrimination/harassment against the University President shall be made directly to the University of Louisiana System Compliance Officer whose name and contact information is:

Bruce Janet
Interim EEO Coordinator/Officer
UL System
Claiborne Building
1201 N. Third, Suite7-3000
Baton Rouge, LA 70802
225-342-6950

Complaint Procedures – Complaints, whether informal or formal, should be reported as soon as possible after any alleged incident of discrimination or harassment has occurred. There is no deadline or required timeframe within which unlawful discrimination or harassment must be reported. However, a large proximity of time in between the alleged discrimination/harassment and the reporting may negatively affect the investigation.

Informal Complaints – A complaint of unlawful discrimination/harassment does not have to begin at the Informal Complaint stage. However, use of the Informal Complaint process may allow a matter to be resolved quickly if the complainant/complainants believes that the circumstances make the Informal Complaint process appropriate for a particular situation. Informal complaints should be made in writing within 10 business days of the date that the individual/group of individuals knew or had reason to know of the alleged discrimination/harassment. Although attempts will be made to address all complaints of discrimination/harassment, complaints that are made more than 30 calendar days after complainant/complainants knew or should have known about the alleged conduct will be more difficult or impossible to investigate depending on the facts involved.

Informal complaints can be resolved through informal meetings (either separate or together) with the complainant/complainants and person/persons engaging in the alleged conduct and informal information gathering. Supervisors and department heads, and other administrators may be involved in resolving an informal complaint. If the Complainant is not satisfied with the results of an informal complaint, a Level 1 Complaint can be filed to begin the Formal Complaint Process. The Compliance Officer may document the resolution of an Informal Complaint.

Should an individual utilize this campus process he/she may simultaneously exercise his/her right to proceed with criminal charges based upon the same behavior/conduct. Regardless of simultaneous criminal charges the University will still conduct its own investigation.

Formal Complaint Process Level 1

Written complaints of discrimination/harassment should be submitted to the University's Compliance Officer within 10 business days of the alleged incident if the complainant/complainants does not wish to use the informal complaint process. This is not a deadline that will prevent a claim of unlawful discrimination/harassment from being heard by the Compliance Officer. However, complaints that are made more than 30 calendar days after the complainant/complainants knew or should have known about the alleged conduct will be more difficult or impossible to investigate depending on the facts involved.

Initial Meeting with Complainant. As soon as is practicable (but no more than 5 business days after the submission of a complaint), the individual investigating the complaint shall contact the complainant and schedule an initial meeting, within 5 business days of the contact. At the initial meeting the Compliance Officer will provide a copy of this policy which explains the process and rights of all parties, request additional information regarding the reported incident, and explain the investigatory process.

Process. The Compliance Officer will either conduct an investigation or authorize an investigation, where all parties are given the opportunity to present witnesses and evidence.

Notice of Allegations to Respondent. At the outset of an investigation, the investigator will provide the respondent prompt (within five working days of the meeting with the complainant) notice of the allegations against him or her in writing together with a copy of/link to this Policy. A written notice of all documents will be provided to the complainant concurrently with respondent.

Investigation Time Frame. The investigation should begin within five working days of the notice to the respondent and must be concluded within a reasonable time frame, preferably no longer than ten working days from the day that the investigation began.

Written Summary. The Compliance Office will then issue to both parties a written summary of the outcome of the investigation within a reasonable timeframe (within ten working days of the completion of the investigation). A copy of the Compliance Officer's written summary of the investigation will be accessible to both parties.

Preventative measures. If an investigation confirms either that discrimination or harassment has occurred or that conduct in violation of the policy has occurred, immediate and appropriate action to stop any such conduct and reasonable steps to prevent any further harassment, discrimination, or retaliation shall be taken.

Formal Complaint Process Level 2

If either party to a complaint of unlawful discrimination and/or harassment wishes to appeal the Level 1 decision, an appeal of the written decision must be made in writing within 10 business days of the receipt of the Level 1 Complaint determination. The appeal should be sent to the Office of the President of the University who will forward the appeal to the University EEO Advisory Committee for a review and determination.

Equal Employment Opportunity (EEO) Advisory Standing Committee

Each University shall create an EEO Advisory Standing Committee composed of members of the faculty and staff from various departments. The EEO Advisory Standing Committee should include individuals representing the interests of classified and unclassified staff and should reflect the diverse workforce of the campus. The EEO Advisory Standing Committee for each University will communicate regularly regarding issues related to policy implementation including University climate and systemic concerns. In addition to its other responsibilities, a sub-group of between three (3) and five (5) of the EEO Advisory Standing Committee Members shall serve as the Level 2 appeal review committee for this Discrimination/Harassment process.

Each university shall maintain a pool of trained investigators who are employees of the universities who have had formal training in investigation techniques, policies, and procedures for purposes of resolving administrative complaints and actions within the campus environment. Such individuals should have knowledge in interviewing, evidence collection, and report writing, and will be the primary individuals responsible for making initial inquiries of complainants and respondents in a variety of administrative proceedings.

Prior to the EEO Advisory Standing Committee's review, a trained investigator appointed by the President of the university will:

1. Review and investigate the Level 1 complaint decision;
2. Collect and clarify additional available facts about the alleged incident;
3. Meet with the complainant/complainants and the accused individual, separately, if appropriate.
4. The trained investigator will provide a report to the EEO Advisory Standing Committee within ten working days of receiving the notice of appeal from the President. The EEO Advisory Standing Committee will review the Level 1 decision and the appeal as well as the investigator's report, and will make a determination regarding the Level 1 decision and will provide detailed findings along with any recommendations for appropriate action to the President of the University for his/her consideration. Such work must be completed within ten (10) working days of receipt of the report of the trained investigator. Recommendations may include: uphold the Level 1 decision in full or in part or render an alternative decision in full or in part. The President of the University will review the report submitted by the EEO Advisory Standing Committee and, depending upon the nature and severity of the charge(s), the

President may approve the recommended action or may recommend an alternate resolution. The action of the President must be taken within five working days of receipt of the report of the Committee.

Any extension of deadlines in this process must only be for reasons of extenuating circumstances and those circumstances must be shared with the complainant/s and the accused individual.

The complainant/complainants and the accused individual will be notified of the decisions at each level. The complainant/complainants will also be notified of all elements of the decision that directly relate to the complainant, involve general campus wide changes, or are otherwise required by state or federal law.

III. Sanctions

Following an investigation, if a faculty or staff member is found in violation of the policy, that individual may be subject to disciplinary action, and the sanctions may include reprimand, probation, suspension, demotion, reassignment, and termination. In the event that personnel action is determined necessary and appropriate with respect to the accused, the University should use its appropriate personnel policies after a determination regarding the allegation

IV. Training

The Compliance Officer on each campus shall identify the human resources personnel as well as the managerial and supervisory personnel on each campus each year. The individuals shall be provided annual training by the Compliance Officer or designee on the Anti-Discrimination and Harassment Policy and shall have access to the Compliance Officer to address any questions or concerns that arise with respect to this policy. The Compliance Officer shall have access to and shall use the UL System EEO Coordinator/Officer as a resource as needed to ensure compliance with this policy.

The EEO Advisory Standing Committee shall also receive training with respect to how to properly review and analyze complaints of retaliation as part of their annual EEO Training.