

SEXUAL HARASSMENT POLICY

PURPOSE

Mississippi State University fosters a campus environment that recognizes individual and cultural differences and is strongly committed to the ethical and legal principle that each faculty member of the university community enjoys academic freedom and all members of the university have a constitutional right to free speech. The right of free expression and the open exchange of ideas and views are essential, especially in a learning environment. Mississippi State University vigorously upholds these freedoms. However, the value of free expression may be undermined by certain acts of harassment as defined below. Such harassment may result in the loss of self-esteem for the victim and the deterioration of a quality classroom, social, or work environment and will not be tolerated.

This policy establishes uniform guidelines and procedures for addressing all forms of harassment applicable to all students, faculty, and staff. Policies 91.123 (Harassment and Discrimination Against Students) and 60-402 (Sexual Harassment Policy) are hereby rescinded.

POLICY

As members of the University community, students, faculty, administrators, and staff have the responsibility to respect and not violate the rights of others and to show tolerance for opinions that differ from their own. However, nothing in this policy prohibits appropriate admonition, argument, and correction by a teacher in the conduct of his/her professional responsibility in the interest of maintaining order, upholding standards, stimulating thought, or promoting competence. Such action is, by definition, not a violation of this policy. Likewise, nothing in this policy precludes management's inherent authority to plan, direct and evaluate the activities of other organizational members in accordance with sound management principles and directives, including communicating, training and disciplining employees.

Harassment based upon race, color, religion, sex (including sexual harassment), national origin, age, disability or veteran status is a form of discrimination in violation of the law and will not be tolerated. Harassment based upon sexual orientation or group affiliation is prohibited by this policy and also will not be tolerated.

Except where knowingly false, punitive action against any person complaining of harassment is prohibited by law or this policy and will not be tolerated.

All students, faculty and staff are expected to adhere to this university policy and will be held accountable for violating it. Mississippi State University will respond promptly to all complaints of harassment and retaliation. Violation of this policy can result in serious disciplinary action up to and including expulsion for students or discharge for employees.

Disciplinary action for violations of this policy is the responsibility of an employee's unit head or other appropriate administrator, or for students, the Dean of Students.

RULES

Definitions

1. Harassment is uninvited and unwelcome verbal or physical conduct directed at a person because of his or her race, color, religion, sex, national origin, age, disability, sexual orientation, or group affiliation that is either of the following:
 - a. Quid Pro Quo harassment consists of unwelcome conduct when:
 - submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, academic advancement or receipt of a university service, and
 - a tangible employment, academic or provision of services action results from the person's failure or refusal to submit to such conduct.
 - b. Hostile Environment harassment consists of unwelcome conduct when:
 - such conduct has the effect of unreasonably interfering with an individual's work or academic performance, thereby creating an intimidating, hostile or offensive working or learning environment, and
 - such conduct is so objectively and subjectively offensive as to alter the conditions of the person's employment or academic advancement [conduct that a reasonable person would find hostile or abusive and one that the victim does in fact perceive to be so]. Hostile environment harassment is usually repeated and unwanted behavior, although a sufficiently serious, isolated incident may constitute harassment.
2. Retaliation is conduct intended as interference, coercion, restraint or reprisal upon or against a complainant of harassment or one participating in the complaint resolution process
3. The complainant is the party asserting an allegation of harassment against a specific person or persons.
4. A respondent is a party against whom an allegation of harassment is asserted.

FALSE ALLEGATIONS

False accusations are prohibited by this policy. Adverse employment or student disciplinary action may be imposed on individuals for such behavior. However, failure to prove a claim of harassment is not equivalent to a false allegation.

CONFIDENTIALITY

While confidentiality cannot be guaranteed, everyone involved in a harassment complaint is expected to treat all information given or received in connection with the filing, investigation, and resolution of allegations as confidential except to the extent it is necessary to disclose particulars in the course of the investigation or when compelled to do so by law. All individuals involved in the process, including the complainant and respondent should observe a high level of discretion and respect for the reputation of everyone involved in the process.

PROCEDURE/RULES

Resolutions of complaints of harassment may be achieved using an informal or formal procedure. The procedures used by both processes are different, but the intent is the same – to stop the harassment, resolve the complaint in a timely manner, and protect individuals' rights. Both begin with notification of the appropriate office within 30 calendar days of the incident. Complaints should be made orally or in writing to the Office of Diversity and Equity Programs or one of the following: Dean of Students Office (respondent is a student), Office of Academic Affairs (respondent is a faculty member), or Human Resources Management (respondent is an employee other than faculty). The Office of Diversity and Equity Programs and the additional appropriate office will work in tandem.

All time limits outlined in this procedure are designed for the expeditious resolution of complaints. Lack of strict adherence to these time limits shall not be grounds for objection or appeal of findings by any party involved in this process.

INFORMAL RESOLUTION

Complaints of harassment may be resolved through informal resolution efforts, but should not normally extend beyond 10 working days from the initial date of complaint. A variety of informal options can be attempted with or without the aid of the identified representative from the appropriate office listed above. The option used is not limited to the following list.

1. The complainant may confront the respondent in person regarding the conduct with or without the assistance of a unit head or appropriate representative as identified above.
2. The complainant may confront the respondent in writing regarding the conduct with or without assistance of the appropriate representative.
3. The complainant may ask the appropriate representative to notify the respondent of the complaint and seek to resolve the complaint.
4. The complainant may ask the appropriate representative to have the complaint mediated between the parties.

FORMAL RESOLUTION

If the complaint of harassment is not resolved informally or the complainant chooses the formal option at the outset, the claim should be put in writing and filed with the appropriate office discussed above. If this is a complaint that was unresolved informally, the appropriate office must be notified, within 5 working days, of the intent to pursue this through a formal process. A representative from the appropriate office will promptly designate a person to investigate the complaint. This representative may differ from the one assisting in the informal resolution.

RESPONSIBILITIES OF THE INVESTIGATING OFFICIAL

The person designated to investigate the allegation will inform the complainant that:

1. The University is not precluded from taking any action it deems appropriate, including informing the respondent of the allegations and pursuing an investigation even in cases when the complainant is reluctant to proceed or fails to reduce the complaint to writing.
2. The manner and frequency with which the complainant will be updated about the status of the investigation.
3. The need for a high level of discretion during the investigatory process.

Normally within 5 working days of receipt of the assignment, the person designated to investigate the allegation will advise of and provide the respondent:

1. The specific allegations and a copy of the written complaint if the complaint is in writing.
2. The manner and frequency in which the respondent will be updated about the status of the investigation.
3. The need for all parties to exercise a high level of discretion during the investigatory process and the University's policy with respect to retaliation.
4. An opportunity to submit a written response to the complaint within 10 working days of notification of the complaint.

COMPLAINT INVESTIGATION

1. The purpose of the investigation is to gather facts.
2. Depending upon the facts of the case, an investigation may range from a one-on-one conversation between the investigating official and the respondent to an inquiry with multiple witness interviews. The investigator will produce a written finding of facts at the conclusion of the investigation.
3. Investigations should normally be completed within 45 calendar days from the date the complaint was first asserted. If this is not reasonably possible, the investigator should

make the complainant and the respondent aware of the status of the review and provide an estimated conclusion date.

SUBMISSION OF INVESTIGATIVE REPORT

Upon completion of the investigation, the investigator shall submit the report to the appropriate university official:

1. The dean of the college within which a respondent faculty member is employed, with a copy of the report submitted separately to the provost.
2. The director of Human Resources Management (when the respondent is an employee other than faculty).
3. The Dean of Students (when the respondent is a student).

FINAL DETERMINATION AND ACTION

Upon receipt of the investigative report, the appropriate university official, as defined above, shall take the following action:

1. The Dean of the College shall review the report and submit an initial determination to the provost that states that a violation of the policy either did or did not occur. If an initial determination is that a violation did occur, then the dean shall also submit an initial proposal to the provost stating what "prompt remedial action" the dean considers appropriate, including potential disciplinary action. The provost will make the final determination as to what actions, if any, be taken.
2. The Director of Human Resources Management shall review the report and forward it to the appropriate "administrative official" (the department head or higher level administrative official in the respondent's administrative chain). The administrative official shall review the report and submit an initial determination through administrative channels to the division head (vice president or other direct report to the president) stating that a violation of the policy either did or did not occur. If the initial determination is that a violation did occur, then the administrative official shall also submit an initial proposal to the division head stating what "prompt remedial action" the administrative official considers appropriate, including potential disciplinary action. The division head will make the final determination as to what actions, if any, are to be taken.
3. The Dean of Students shall review the report and handle the matter in accordance with OP 91.100.

NOTIFICATION OF DECISION AND APPEAL PROCESS

Upon conclusion of the determination process, the complainant and respondent will receive a written copy of the decision. The complainant or respondent may appeal the decision in writing,

within 10 working days, to the President. The appeal must be based on new facts not previously available, the sanction is arbitrarily harsh or capricious, or procedures were not followed that substantially affected the result. The President will render a final decision within 15 working days. This decision completes the university process.

REVIEW

This policy shall be reviewed by the director of the Office of Diversity and Equity Programs every four years (or whenever circumstances require an earlier review).