

POLICY PROCEDURES
FOR ADDRESSING THE
ISSUES CONCERNING
SEXUAL HARASSMENT

INTRODUCTION

The concept of sexual harassment is not a new phenomenon in the workplace or academic environment. Historically, victims have been reluctant to discuss incidents of sexual harassment. However, today sexual harassment charges are the most adjudicated of Title VII and Title IX issues. There are several factors which account for this development, including: (1) the issue has received great notoriety on a national level; (2) the increase in cases found in favor of the victim; and (3) the decreased tolerance of it on the part of both management and the victim.

The sexual harassment of women or men was established as a violation of Title VII of the Civil Rights Act of 1964 and the Civil Service Reform Act of 1978 and most recently, the Civil Rights Act of 1991. In addition, Title IX of the Education Amendments of 1972 and professional codes of ethics deal with the issues involving sexual harassment. The Equal Employment Opportunity Commission has set strict standards of accountability for both the harasser and the employer. As in other Title VII issues, the effect rather than the intent of the employee and employer's conduct is the basis for determining responsibility. The claim that the harassment was unintentional is disallowed as an employer defense. Similarly, employers are absolutely liable for the actions of their agents or employees in cases in which the supervisory chain knew or should have known of the misconduct. An employee is defined as any person receiving monetary compensation for work.

Complaints of sexual harassment against employers can arise under state tort law and/or Title VII or Title IX law. Although the most common of sexual harassment charges involve an act of misconduct being perpetrated by a male supervisor against a subordinate female employee, the perpetrator can be a female against male, male against male, or female against female.

The Equal Employment Opportunity Commission's Sexual Harassment Guidelines specifically apply to employer and employee relationships and responsibilities. However, Louisiana Tech University's policy explicitly addresses and prohibits sexual harassment of students.

LOUISIANA TECH UNIVERSITY'S STATEMENT ON SEXUAL HARASSMENT

Louisiana Tech University is committed to providing an educational environment and workplace free from sexual harassment and sexual violence through appropriate training and providing a means to remedy sexual harassment that employees/students feel they may have experienced. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex. Sexual harassment, which includes acts of sexual violence, is a form of sex discrimination. Training for employees is scheduled annually; training resources are also available in the Center for Instructional Technology and Distance Learning on the 10th floor of the Library.

Members of the University community—students, staff, faculty, and administrators—are entitled to a professional working environment, free of harassment or interference for reasons unrelated to the performance of their duties. Since some members of the community hold positions of authority that may involve the legitimate exercise of power over others, it is their responsibility to be sensitive to that power, so as to avoid actions that are abusive or unprofessional. Faculty and supervisors, in particular, in their relationships with students and fellow employees, need to be aware of potential conflicts of interest and the possible compromise of their evaluative capacity. Because there is an inherent power difference in these relationships, the potential

exists for the less powerful person to perceive a coercive element in suggestions regarding activities outside those appropriate to a strictly professional relationship. It is the responsibility of faculty and supervisors to behave in such a manner that their words or actions cannot reasonably be perceived as suggestive or coercive.

Sexual harassment is illegal. It is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- a. **Sexual Harassment:**
Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status, or of participation in activities or events sanctioned by the university; or
- b. **Quid Pro Quo Sexual Harassment:**
Submission to or rejection of such conduct by an individual is used as the basis for employment or academic status, or other decisions about participation in activities or events sanctioned by the university; or
- c. **Hostile Environment Sexual Harassment:**
Such conduct has the purpose or effect of threatening an individual's employment, interfering with an individual's work or academic performance, or creating an intimidating, hostile, offensive working or educational environment.

All faculty, staff, and administrators will be held accountable for compliance with this policy. While each case of allegations of sexual harassment and its resulting effect on the mission of the University must be considered on its own, violations of this policy may lead to disciplinary action to include suspension or removal.

Retaliation against any person for exercising legal rights is prohibited and illegal. Steps will be taken to prevent retaliation, and the University will take strong responsive action if it occurs.

Intimidation and harassment are both inconsistent with the maintenance of academic freedom on campus; therefore, nothing contained in this policy shall be construed either to limit the legitimate exercise of the right of free speech or to infringe upon the academic freedom of any member of the University community.

Although there is no universally agreed upon definition of sexual harassment that fits all contexts and circumstances, there is agreement that it can be verbal, non-verbal or physical (the latter sometimes qualifying as criminal sexual assault), and that it can occur once or several times. The following are examples of behaviors generally viewed as sexual harassment when they are unwanted:

- * direct or indirect threats or bribes for unwanted sexual activity;
- * sexual innuendo and comments;
- * asking or commenting about a person's sexual activities;
- * humor or jokes about sex or females/males in general;
- * sexually suggestive sounds or gestures;
- * pestering a person for dates or sexual behavior;
- * touching, patting, pinching, stroking, squeezing, tickling or brushing against a person;
- * giving a neck or shoulder message;
- * ogling or leering;

- * spreading rumors about a person's sexuality;
- * name calling;
- * letters, notes, telephone calls or materials of a sexual nature;
- * sexist or stereotypical comments;
- * displaying pictures, calendars, cartoons or other materials with sexual content;
- * leaving obscene message on campus computers;
- * stalking a person either outside or inside an institution; and
- * attempted or actual sexual assault.

Any questions regarding either this policy or a specific past situation should be addressed to the appropriate university administrator, affirmative action officer, Counseling Services Director, or the Vice President for Student Affairs.

PROCEDURES FOR RESOLUTION OF SEXUAL HARASSMENT COMPLAINTS

Louisiana Tech University has developed a two-step procedure for handling sexual harassment complaints:

1. A mechanism to resolve complaints informally;
2. A procedure to handle formal charges if the first procedure is unsuccessful or if further action is deemed appropriate.

Procedures for Resolving Complaints Informally

Initial Contact:

1. Any employee or student who believes he or she has been the subject of sexual harassment, sexual intimidation, or discrimination is encouraged to consult with an appropriate University officer (Title IX Coordinator, Department Head, Dean, Director, or Vice President) to gain an understanding of both the Louisiana Tech University Sexual Harassment Policy and of possible options and resources. The University Title IX Coordinator is Susan Rasbury, P.O. Box 3168, 257-3785, srasbury@latech.edu.

2. Students have the option of consulting with the Vice President for Student Affairs, Dean of Student Development, or Dean of Student Life.

3. Upon receiving the initial complaint, the University officer will schedule a preliminary meeting to discuss the charges, to explain proper procedures, to complete the Sexual Harassment Complaint Checklist, and to determine whether further information is needed. Based upon the outcome of this meeting, the administrator will take one of the following actions:

- A. If the person wants to proceed with the complaint, the University officer will explain the process and the procedures.
- B. If the person does not want to proceed with the complaint, the University officer will make a record of the complaint and take such action as necessary to protect the interest of the complainant and of the University.
- C. If after the preliminary investigation the University officer feels that sexual harassment has not occurred, the officer will advise the person of his or her findings and will advise the person of his/her options if the person wishes to proceed further with the complaint.

Louisiana Tech University has two types of procedures to address sexual harassment complaints-

informal and formal. Anyone who believes himself or herself to be a victim of sexual harassment may make use of both procedures, if deemed necessary.

Informal Resolution:

If a person decides to file a sexual harassment complaint, the following procedure shall be adhered to:

Every effort should be made to resolve a complaint within thirty (30) days of the complaint using an informal process. During this preliminary stage, the complainant will be encouraged to provide information contained in the Sexual Harassment Complaint Checklist obtained from the Director of Counseling Services describing the behavior and relief sought. After completing the Sexual Harassment Complaint Checklist, the administrator will use the Assessment Form to determine appropriate courses of action. If the University officer decides that the described situation fits the definition of sexual harassment, he/she will request the names of the involved parties and will request an agreement to conduct an informal investigation.

The objective of this process will be to provide appropriate relief to the aggrieved party, sensitize the alleged harasser to the effects of such behavior, and resolve the complaint to the mutual satisfaction of both parties. An investigation will minimally include contacting the University officer responsible for the accused (i.e., if a student makes a complaint to the Vice President for Student Affairs about a faculty member, the Vice President for Student Affairs will notify the faculty member's dean and/or department head relative to the complaint). Other steps that may take place in the investigative process are the following: (1) additional fact finding; (2) a meeting with the administrative officer of the accused to discuss the grievance; and (3) a meeting with the complainant and accused separately or together.

Where a resolution is reached, a dated copy of the terms of the resolution indicating the nature of the complaint and the names of the parties shall be recorded and kept in a separate case file to be located in the appropriate University office.

Note: The person filing the complaint will be protected against retaliation in any form. Words or behavior that punish a person for filing a complaint of sexual harassment are illegal.

False accusations have a damaging effect on innocent people. False accusations are not condoned and may lead to disciplinary action.

Confidentiality

Louisiana Tech University will make every effort to maintain confidentiality to the extent legally possible throughout the investigation and hearing procedures. If a complainant insists on confidentiality, the ability to respond may be limited.

Procedures for Resolving Complaints Formally:

If the informal proceedings are deemed inappropriate by either party or if the matter is not resolved, the aggrieved party may initiate the formal grievance procedure. In extraordinary circumstances when the continued working or academic relationship between the aggrieved party and the accused creates an impossible working/academic environment, a temporary transfer or reassignment of duties will be considered.

If the aggrieved party decides to proceed with a formal grievance, the following action will take place:

1. A written and signed complaint of sexual harassment must be submitted to the appropriate University officer by the aggrieved party within ten (10) working days after the informal resolution has failed or within sixty (60) calendar days of the incident cited as sexual harassment. Student complaints should be submitted within ten (10) months of the incident. The complaint shall state, clearly and concisely, the facts which are the grounds for the proceeding and the relief sought. The University officer receiving the written complaint shall inform the appropriate Vice President of the complaint so that a hearing may be set. In special circumstances, time limits may be waived with the mutual consent of University officers. All matters will be handled as expeditiously as possible.

2. Upon receipt of the written complaint, the appropriate University officer(s) will within five (5) days contact the person who allegedly engaged in the sexual harassment and inform him or her of the basis of the complaint and then give him or her the opportunity to respond.

That person will have five (5) days to respond to the complaint. The response shall contain full, direct, and specific responses to each claim in the complaint.

3. Within fifteen (15) days of the aforementioned deadline, the Vice President for Student Affairs will convene the University's Sexual Harassment Grievance Committee to establish hearing procedures concerning the complaint.

4. The function of the Sexual Harassment Grievance Committee will be to hear and consider testimony and other relevant evidence, to make findings of fact, to determine whether the University's policy on sexual harassment has been violated, and to recommend appropriate relief and disciplinary action(s) if the policy has been violated. A copy of the Committee's findings will be made and retained by the appropriate University officer(s).

5. If the Sexual Harassment Grievance Committee determines that sexual harassment has occurred, it will recommend effective corrective action. The corrective action will reflect the severity of the incident and any past sexual harassment offenses. Effective corrective action can include but is not limited to the following:

- a. Oral reprimand
- b. Written reprimand
- c. Suspension
- d. Reassignment of duties
- e. Termination
- f. Counseling
- g. Any combination of the above.

6. Within five (5) days following the conclusion of its investigation and hearing, the Sexual Harassment Grievance Committee will forward its findings and recommendation for action to the President or his designee. When the recommendation concerns a classified employee, the designee will be the Director of Personnel. Within fifteen (15) working days, the President will review the Committee's recommendation and determine an appropriate course of action and sanctions. The decision will be communicated in writing to the accuser, accused, and the accused's appropriate administrative supervisor(s).

7. Either party may appeal the Committee's recommendation by submitting a written request to the President. Request for an appeal must be made to the President or his designee within fifteen (15) days after the appealing party receives a copy of the Committee's findings. The written ruling of the President or his designee shall constitute the final decision. Beyond that point, both parties may seek remedies outside the University.

The use of this formal procedure in no way limits a resolution that is agreeable to all parties at any state; however, any such mutually agreed upon resolution must be documented in writing and signed by the accuser, the accused, and the administrator who handled the complaint.