

10/14/03

## **INDIANA STATE UNIVERSITY SEXUAL HARASSMENT PREVENTION POLICY**

**1.0 Indiana State University (ISU)** is committed to creating and maintaining a positive learning and working environment for its students and employees and will not tolerate sexual harassment. ISU is committed to taking steps to prevent sexual harassment and to promptly addressing any violations of this policy.

### **2.0 Sexual harassment is prohibited and will not be Tolerated.**

Sexual harassment is demeaning and degrading and a form of prohibited discrimination on the basis of sex. It is an affront to an individual's dignity, sense of self and self-esteem. As such it can have a negative impact on performance at work or in an academic setting. Sexually harassing behaviors are prohibited by the University and will not be tolerated.

### **3.0 Sexual Harassment is illegal.**

Sexual harassment is a violation of several state and federal laws including the Title VII of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972. As a recipient of federal funds, Indiana State University must comply with these federal statutes. Sexual harassment is also prohibited in the Equal Opportunity & Affirmative Action Policy Statement of the ISU Board of Trustees, effected in 1981 and confirmed in 1993 and 2003.

### **4.0 Scope of this Policy:**

This policy applies to all persons at the University or attending University sponsored classes, events and programs. Visitors to the campus and workers employed by private firms engaged in business on the campus are expected to comply with this policy.

### **5.0 Definitions of Sexual Harassment**

5.1 Sexual harassment refers to the unwelcome imposition of sexual attention often in the context of a relationship of unequal power. The policy applies to men and women equally with regard to both opposite sex and same sex harassment.

5.2 Sexual harassment is any conduct, physical or verbal, that is sexual in nature and which has the effect of unreasonably interfering with an individual's or group's educational or work performance or which creates an intimidating, hostile, or abusive educational or work environment.

5.3 Unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting can constitute sexual harassment, if:

5.31 Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.

5.32 Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.

5.33 The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

5.34 Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution."

5.4 Examples of sexually harassing conduct may include, but are not limited to the following, whether in person or through any communication devices:

Sexual assault

Derogatory comments of a sexual nature

Displaying sexually suggestive pictures or object

Graphic verbal commentaries about an individual's body

Impeding, crowding or blocking movements

Jokes of a sexual nature

Slurs of a sexual nature

Suggestive gestures

Unwelcome touching

5.5 Conduct may be found to be sexually harassing if it is pervasive or repetitive and sufficiently severe to alter the conditions of employment, education, or participation in University sponsored activities or is a single incident that is sufficiently outrageous or harmful, in and of itself, that it substantially alters the conditions of the environment for the complainant or interferes with an individual's right to gain an education or perform job related responsibility.

## **6.0. Academic Freedom**

Because it is important to safeguard academic freedom and protect the openness and integrity of the teaching process, it is to be understood that discussion of sexual topics and the discussion and display of sexually explicit materials and the touching of students in certain classroom settings may well be professionally appropriate and do not necessarily constitute "sexual harassment." The context of the actions must be considered.

## **7.0 Intent of Sexually Harassing Behavior:**

A claim by an alleged harasser that he or she did not intend to commit sexual harassment is not a defense to a complaint of sexual harassment. Regardless of intent, it is the nature, effect, characteristics and context of the behavior that determine whether the behavior constitutes sexual harassment.

## **8.0 Sanctions for Sexual Harassment:**

8.1 The sanctions that Indiana State University may impose for sexually harassing behavior, depending on severity, may include, but are not limited to, reprimand, mandatory training, suspension, demotion, loss of tenure and dismissal.

8.2 The sanctions imposed for sexually harassing behavior by a student include, but are not limited to, mandatory training, probation, suspension, and expulsion.

8.3 Sexually harassing behavior by non-students or non-employees may result in restricting the harasser's access to campus.

8.4 In addition to University imposed sanctions, persons who commit sexual harassment are subject to personal liability for damages suffered by the complainant.

### **9.0 Consensual Relationships:**

For purposes of this policy, a consensual relationship is any freely and mutually agreed-to dating, romantic, or sexual relationship between adult individuals. The previous existence of a consensual relationship is not considered a defense in the context of a sexual harassment complaint.

### **10.0 Responsible Administrative Office for Complaints of Sexual Harassment:**

The Office of Diversity & Affirmative Action is responsible for coordinating the University response to complaints of sexual harassment, investigations and for providing education about sexual harassment for members of the campus community. The office serves as a clearinghouse for all University sexual harassment complaints and investigations, including those that arise in auxiliary corporations. The office will develop and disseminate sexual harassment complaint procedures to implement this policy and applicable state and federal regulations.

### **11.0 Mandatory Reporting by University Officers:**

Upon learning of allegations of sexual harassment from an alleged victim, Deans, Directors, Department Chairs and other officers of the University shall report such allegations to the Office of Diversity & Affirmative Action within 5 (five) working days.

### **12.0 Procedures for Reporting Sexual Harassment:**

12.1 A student or employee who believes they are being harassed can discuss their concerns with a Human Resources manager, their direct supervisor or a department Chair, who will in turn contact the Director of Diversity & Affirmative Action.

12.2 Any student, staff, or faculty member who believes that she or he has been sexually harassed may initiate an informal complaint or discuss any concerns with the Office of Diversity & Affirmative Action.

12.3 A formal investigation shall be initiated by the complainant filing and submitting a Formal Complaint Form with the Office of Diversity & Affirmative Action or by lodging a complaint with the appropriate auxiliary office. The procedures for a formal investigation are available at the Office of Diversity & Affirmative Action.

12.4 At any time from the initiation of a complaint to the conclusion of the campus investigation, either party or the University may suggest a confidential mediation of the dispute.

12.5 Any student, faculty or staff member may discuss behaviors that could be possible sexual harassment with staff in the Office of Diversity & Affirmative Action

without filing a formal complaint. If the behavior described fits the definition of sexually harassing behavior, some intervention may be required.

12.6 It is the responsibility of University administration to ensure that formal procedures for sexual harassment complaints are followed.

**13.0 Conversations** with persons other than those designated do not constitute notice to the University or auxiliaries of allegations of sexual harassment.

**14.0 University Support for Persons Complaining of Sexual Harassment:**

Upon receiving a complaint of sexual harassment, the Office of Diversity & Affirmative Action shall inform the complainant of the support services available at the University and in the community. At the University this may include the Office of Counseling and Psychological Services, the Office of the Ombudsmen, the Women's Resource Center, Student Health Services, Employee Assistance Programs, and Campus Police.

**15.0 Confidentiality:**

15.1 The Office of Diversity & Affirmative Action shall maintain confidentiality for all parties to the extent permitted by law. It is the responsibility of the University to take prompt action to correct sexually harassing behavior once it is reported. At the complainant's request, the University shall attempt to intervene in a manner that shall maintain the complainant's anonymity. However, complainants should be aware that in a formal investigation due process requires that the identity of the charging party and the substance of the complaint be revealed to persons charged with harassment.

15.2 Students who wish complete confidentiality may obtain confidential counseling and advice about sexual harassment from counselors in the Office of Counseling and Psychological Services or Student Health Services. Faculty and staff can obtain confidential counseling and advice via employee assistance programs

15.3 Non-party witnesses participating in sexual harassment investigations are prohibited from sharing information revealed to them during the investigation with parties, other witnesses or any individuals outside the investigative process.

**16.0 Record Keeping:**

The Office of Diversity & Affirmative Action shall keep all written records of investigations or notes of discussions in a confidential, secure location with access to the records limited to those persons with a "need to know."

**17.0 Retaliation Against Persons Reporting Sexually Harassing Behaviors:**

17.1 It is illegal to retaliate against anyone reporting or thought to have reported sexual harassment behaviors or who is a witness or otherwise is involved in a sexual harassment proceeding. Encouraging others to retaliate also is illegal. Examples include, but are not limited to, retaliatory grading, evaluation, assignment or ridicule, threats and withholding information to which a person is entitled.

17.2 Sanctions imposed for retaliatory behavior by a faculty or staff member

include, but are not limited to, reprimand, suspension, demotion, and loss of tenure and dismissal. The sanctions imposed for retaliatory behavior by a student include, but are not limited to, probation, suspension, and expulsion.

**18.0 False Charges of Sexual Harassment:**

18.1 To make false charges of sexual harassment is a serious offense. In this context, a false charge is one in which the charging party knowingly or recklessly alleges sexual harassment for which there is no basis.

18.2 Sanctions imposed for false charges of sexual harassment by a faculty or staff member include, but are not limited to, mandatory training, reprimand, suspension, demotion, and dismissal (loss of tenure).

18.3 The sanctions imposed for false charges of sexual harassment by a student include, but are not limited to, mandatory training, probation, suspension, and expulsion.

**19.0 Other Legal Remedies for Sexual Harassment:**

Complainants not satisfied with the disposition of their complaint on this campus may contact the Indiana Commission for Civil Rights, the United States Department of Education Office for Civil Rights, or the Equal Employment Opportunity Commission. Contact information is available at the Office of Diversity & Affirmative Action.

**20.0 Information Distribution and Training:**

The Office of Diversity & Affirmative Action is charged with distributing this policy to the University community and providing educational opportunities appropriate to faculty, staff, and students. Sexual harassment prevention training is required for all supervisors, chairs, directors and employees with oversight responsibility for other employees or student workers. Such training is a required part of new employees orientation if they are to carry out personnel oversight duties.

*Approved by ISU Board of Trustees: October 24, 2003*