

SEXUAL HARASSMENT PREVENTION FOR FACULTY, STAFF AND STUDENTS

FOR MORE INFORMATION ON AA- AND EO-RELATED ISSUES CONTACT:
USU Affirmative Action/Equal Opportunity Office
Old Main, Room 161 (Near South Entrance)
<http://www.usu.edu/aaeo>

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Logan, Utah 84322-1475 **FAX: (435) 797-0291**

SEXUAL HARASSMENT IS AGAINST THE LAW

You can find more information about these laws and policies by visiting the Affirmative Action/Equal Opportunity (AA/EO) Office Web Site at: <http://www.usu.edu/aaeo/index.html>

- **Title VII of the Civil Rights Act of 1964, as amended**, prohibits employment discrimination based on sex (along with several other "protected" categories). This includes sexual harassment as a form of sex discrimination.
- **Title IX of the Education Amendments of 1972**, prohibits sex discrimination against students (including sexual harassment) in educational institutions.
- **The State of Utah Executive Order dated 13 December 2006**: recognizes that "unlawful harassment undermines the integrity of the workplace, destroys morale and offends social and legal standards of acceptable behavior;" mandates harassment awareness training; prohibits retaliation; and requires development and disseminating of complaint procedures to all employees with emphasis on managers understanding their responsibilities in "identifying unlawful harassment and appropriately dealing with complaints and solving related problems."
- **Utah State University Policies** (to read the complete policy go to the web address indicated):

1. **Policy Number 303: Affirmative Action/Equal Opportunity** [<http://www1.usu.edu/hr/policies/303.htm>]: Outlines USU's commitment to affirmative action and equal opportunity laws, requirements and concepts. This policy prohibits all forms of discrimination and harassment based on race, color, religion, sex, national origin, age, disability, or veteran's status. In addition, discrimination on the basis of sexual orientation for employees in all aspects of employment and for students in academic programs and activities is prohibited.

2. **Policy Number 305: Discrimination Complaints** [<http://www1.usu.edu/hr/policies/305.htm>]: Establishes the University's complaint procedures applicable to victims of sexual harassment (and any other form of illegal discrimination). The procedure establishes that:

- a. an informal process may be utilized to resolve certain issues;
- b. a complaint may be brought to the Affirmative Action/Equal Opportunity (AA/EO) Office up to 180 days of last occurrence;
- c. the AA/EO Director shall conduct an inquiry into the formal complaint;
- d. an appeal may be filed if the findings of a formal complaint are questioned by either party;
- e. all sexual harassment matters and all complaints will be handled with discretion, confidentiality, and respect for the privacy and due process rights of all parties; and

- f. the University (or any of its employees and/or students) is prohibited from retaliating against an individual who has made charges, testified, assisted with or participated in any way in any proceeding, investigation or hearing, or brought forth issues in regard to violations or alleged violations of laws or orders relating to equal educational and/or employment opportunity.

3. **Policy Number 339: Sexual Harassment** [<http://www1.usu.edu/hr/policies/339.htm>]: Forbids the sexual harassment of any student, employee, or recipient of University services.

4. **Policy Number 407: Academic Due Process: Sanctions and Hearing Procedures** [<http://www1.usu.edu/hr/policies/407.htm>]: Section 407.10 specifically prohibits "consensual relations" (or any amorous relationship) between a student and faculty member when: (1) the faculty member has the student in a class; (2) the faculty member supervises the student's academic work (including TAs); or (3) the faculty member can control or influence the student's current or future academic or professional success.

DEFINITION OF SEXUAL HARASSMENT

(The following is based on a definition provided by the Equal Employment Opportunity Commission [EEOC]. The underlined portions reflect coverage of students under Title IX of the Educational Amendments of 1972)

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment

WHEN

1. submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or a student's academic success;
2. submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individuals; or
3. such conduct unreasonably interferes with an individual's work or academic performance or creates an intimidating, hostile or offensive working, or learning environment.

Over the years, the courts have used the above to define two distinct forms of illegal sexual harassment:

- **Quid pro quo** (something for something) sexual harassment is typified by the first two conditions listed above.
- **Hostile environment** sexual harassment is typified by the third condition. An individual needs to show that the sexual harassment adversely impacted on his/her job or academic performance, and created an offensive, intimidating and hostile environment.

YARDSTICK FOR EVALUATING BEHAVIORS THAT MAY BE SEXUAL HARASSMENT

For a common-sense, everyday way of evaluating what may be sexual harassment, scrutinize the behavior(s) utilizing the following questions:

1. Is the behavior unwanted or unwelcome?
2. Is the behavior sexual in nature?
3. Is the behavior severe and/or pervasive?
4. Does the behavior have an adverse impact on the workplace or academic environment?

NOTE: Sexual harassment often occurs in the context of a relationship where one person has more formal power (such as a supervisor over an employee or a faculty member over a student) or more informal power than the other (such as one peer over another).

SEXUAL HARASSMENT COMES IN MANY FORMS - THEY ARE ALL ILLEGAL! The following are behaviors that have been shown to be sexual harassment when they are unwanted and accomplished under specific circumstances:

VERBAL

- Whistling or making cat calls at someone
- Making sexual comments about a person's clothing or body
- Telling sexual jokes or stories
- Asking personal questions about an individual's sex life, fantasies, preferences or history
- Repeatedly asking a person out who has clearly expressed a lack of interest
- Turning work discussions to sexual topics
- Referring to an adult woman or man as a "hunk," "doll," "babe," "honey," or other demeaning words or phrases
- Telling lies or spreading rumors about a person's personal sex life
- Direct or indirect threats or bribes for unwanted sexual activity

NON-VERBAL

- Paying unwanted attention to someone (i.e., staring, following, blocking a person's path)
- Displaying sexually suggestive visuals (includes e-mails and web sites)
- Making facial expressions such as winking, throwing kisses, or licking
- Giving letters, personal gifts, and/or materials of a sexual nature
- Making sexual gestures with hands or through body movement
- Invading a person's body space; standing closer than appropriate or necessary for the work being done
- Looking a person up and down ("elevator eyes")

PHYSICAL

- Hanging around, standing close to, or brushing up against a person
- Touching a person's clothing, hair, or body to include giving a massage around the neck and shoulders
- Hugging, kissing, patting or stroking
- Touching or rubbing oneself sexually around or in view of another person
- Sexual assault or rape

WHAT TO DO ABOUT SEXUAL HARASSMENT?

You should immediately undertake some course of action. The Affirmative Action/Equal Opportunity (AA/EO) Office can provide advice and/or assistance to you in a timely, professional and confidential manner. Here are some specific options to consider:

1. Recognize sexual harassment when it happens. Understand that it is not your fault and that it does not "come with the job." Remember that sexual harassment is against the law and should be dealt with as quickly as possible.
2. When you experience unwelcome behavior of a sexual nature, talk to the perpetrator if possible. Tell him/her that you find the behavior offensive. Describe how the behavior negatively affects your work or study environment and that you want it to stop.
3. If you don't feel like speaking directly to the person, you may want to put your objections to the behavior(s) in writing, sending a copy to the harasser and keeping one in your file. Write:
 - a. On "this date" you did "this."
 - b. It made me feel "this."
 - c. I want "this" to happen next (i.e., I want "this" to stop).
4. Document all behaviors which are or could be sexual harassment or conversations about the incidents. Record the date, time, place, people involved, and who said what to whom.
5. Consider talking to others (co-workers/students) to see if they have experienced similar behaviors.
6. Consider your behavior. Sexual harassment is illegal and wrong and you should not encourage the action. You are not at fault but you might want to evaluate elements of your own behavior and how you might better communicate to the individual that you are uncomfortable with his/her actions. Don't encourage harassers by smiling, laughing at their jokes, "firting back," or otherwise participating in the behavior.

WHO TO TALK TO ABOUT SEXUAL HARASSMENT CONCERNS?

If you feel you are the victim of sexual harassment, you may seek advice and assistance or file a complaint with the USU AA/EO Office (location & contact information listed above). You may also choose to file a complaint with one or more of the following state/federal offices:

- The Utah Antidiscrimination and Labor Division (UALD) in Salt Lake City
- The Equal Employment Opportunity Commission (EEOC)
- The Office for Civil Rights, U.S. Department of Education

You are encouraged to discuss the issue with your supervisor, advisor, teacher, or somebody in the supervisory chain.

There are several offices on campus that can assist you and possibly provide some support, and you are encouraged to use them as resources. However, the AA/EO Office has ultimate responsibility for investigating and assisting in the resolution of complaints of sexual harassment at USU. Some of these other offices include:

- Center for Women and Gender, 797-9222
- Counseling & Psychological Services, 797-1012
- USU Police, 797-1939
- Office of Student Conduct, 797-3137
- Sexual Assault and Anti-Violence Information (SAAVI) Office, 797-1510
- Access and Diversity Center (for LGBTQA, multicultural, veterans and non-traditional students), 797-1728