

1.11 HARASSMENT

I. Introduction

Saint Louis University is a Catholic, Jesuit institution with a distinctive educational mission and philosophy emphasizing Christian humanism, human dignity, and the development of the total human being. These core values are manifested in the University's commitment to foster a workplace and learning environment that is free from any form of prohibited harassment.

II. Purpose

Saint Louis University prohibits harassment because of sex, race, color, religion, national origin, ancestry, disability, age, sexual orientation, marital status, military status, veteran status, gender expression/identity, genetic information, pregnancy, or any other characteristics protected by law. This Policy is intended to complement other University policies, including but not limited to, the Americans with Disabilities Act, *Equal Employment Opportunity and Affirmative Action Policy*, *Family and Medical Leave Act Military Leave Policy* and the *Title IX Sexual Harassment Policy*.

The information contained in this Policy is intended to raise awareness, facilitate reporting, and ensure that appropriate steps are taken when a report is received. In the event the complaint involves allegations of sexual assault or intimate partner violence in which the accused is a student, the provisions and procedures set forth in the *Title IX Sexual Harassment Policy* will apply. Additional information regarding the University's *Title IX Sexual Harassment Policy* may be found at <https://www.slu.edu/about/safety/sexual-assault-resources/index.php> (<https://www.slu.edu/about/safety/sexual-assault-resources/>)

III. Personnel Affected

This Policy applies to all University faculty, staff, and volunteers, with the exception of Saint Louis University Madrid employees. In addition, this Policy applies to all students of Saint Louis University.

IV. Definitions and Examples

For purposes of this Policy, the following definitions apply:

"Harassment" means any unwelcomed, unsolicited, and offensive conduct that is severe or pervasive and tends to injure, degrade, disgrace or show hostility toward a person because of sex, race, color, religion, national origin, ancestry, disability, age, sexual orientation, marital status, military status, gender expression/identity, genetic information, pregnancy, or any other characteristic protected by law. For purposes of applying this Policy, "sexual" harassment includes conduct that is of a

sexual nature or related to a person's gender and may include persons of the same sex.

"Sexual assault" is a form of harassment. "Sexual assault" refers to engaging in any form of sexual contact or conduct with another without that person's clear, knowing, and voluntary consent. Sexual assault refers to any sexual contact without consent and includes intentional touching, either of the victim or when the victim is forced to touch, directly or through clothing, another person's genitals, breasts, thighs, or buttocks. Sexual assault also refers to any attempted or actual sexual penetration of any kind without the victim's consent, including vaginal, oral or anal penetration by fingers, genitals, or objects.

"Stalking" is when any person purposely and repeatedly engages in an unwanted course of conduct that would cause a reasonable person to fear for their or others' safety, or to suffer substantial emotional distress. Stalking can be a form of Sexual Harassment and may be prohibited by the University's *Harassment Policy* and Student Code of Conduct. Stalking may also present a safety concern. Reports of stalking that require immediate emergency action should be directed to the Department of Public Safety ("DPS").

Harassment is a violation of this Policy in any of the following situations:

1. If a person is promised or is given some favorable academic or employment-related action or benefit only if they will submit to or tolerate the harassing behavior; or
2. If a person is threatened with or suffers adverse academic or employment-related action because they have not submitted to or tolerated the harassing behavior; or
3. If the harassing behavior in question interferes with a person's work or academic performance, has the purpose or effect of interfering with a person's status or participation in a university course, program, or activity, is used as a basis for educational or employment decisions, or has the purpose or effect of creating an intimidating, hostile, or offensive working, learning, or living environment.

The following examples are provided so that members of the University community have a better understanding of the general range of behaviors that might constitute harassment in violation of this Policy.

Examples of "harassment" in violation of this Policy include the following:

1. Sexual advances, propositions, flirtations, requests or pressure of any kind for sexual favors under any of the circumstances described in paragraphs (1), (2), or (3), in Section 4.0, above;
2. Sexually explicit, graphic, abusive, degrading, intimidating, or offensive jokes, comments, remarks, or gestures, under any of the circumstances described by paragraphs (1), (2), or (3), in Section 4.0, above.
3. Physical contact or intimidation under any of the circumstances described by paragraphs (1), (2), or (3), in Section 4.0, above.
4. Display, circulation, or communication of any sexually suggestive, explicit, graphic, or offensive objects, pictures, or materials of any kind, under any of the circumstances described by paragraphs (1), (2), or (3), in Section 4.0, above.
5. Epithets, slurs, negative stereotyping, or threatening, intimidating, or hostile acts that relate to sex, race, color, religion, national origin, ancestry, disability, age, sexual orientation, marital status,

military status, veteran status, gender expression/identity, genetic information, pregnancy, or any other characteristics protected by this Policy and/or law, under any of the circumstances described in paragraphs (1), (2), or (3), in Section 4.0, above.

6. Placing on walls, bulletin boards, email, social networking websites, or elsewhere on the University's premises graphic material that shows hostility or aversion to an individual group because of sex, race, color, religion, national origin, ancestry, disability, age, sexual orientation, marital status, military status, veteran status, gender expression/identity, genetic information, pregnancy, or any other characteristics protected by this Policy and/or law, under any of the circumstances described in paragraphs (1), (2), or (3), in Section 4.0, above.

V. Policy

Saint Louis University affirms that harassment because of sex, race, color, religion, national origin, ancestry, disability, age, sexual orientation, marital status, military status, veteran status, gender expression/identity, genetic information, pregnancy, or any other protected classification is detrimental to its mission and values. The University endeavors to take steps reasonably necessary to prevent such behavior from occurring, including providing education and training to faculty, staff, and students as to their rights and responsibilities, informing persons of the appropriate procedures for reporting inappropriate behavior, promptly investigating complaints, and imposing appropriate sanctions.

This Policy shall be applied in a manner consistent with the University's provision on academic freedom set forth in *The Faculty Manual of Saint Louis University*.

If a situation preexists or arises in which members of the University community in unequal positions of power engage in sexual or romantic relationships, the provisions and procedures set forth in the *Consensual Sexual or Romantic Relationships Policy* will apply.

VI. Complaints

Any person who believes that they have been subjected to conduct prohibited under this Policy may elect to pursue the matter as either an informal or a formal complaint. An informal complaint involves discussion and counseling as the primary means by which conduct may be constructively influenced and resolution reached. A formal complaint may result in disciplinary action against the accused, up to and including, termination of employment and/or expulsion from the University.

A complaint will be reviewed using a preponderance of the evidence standard to determine whether or not a harassment violation has occurred. This will include examining the totality of the circumstances such as the nature of the conduct, the context in which the alleged incident(s) occurred, whether the conduct was solicited or invited, and the frequency, severity, and impact of the conduct on the victim. In order to find a violation, the conduct must be both unwelcome and offensive to a reasonable person and perceived as such by the complaining party.

Any person who, in bad faith, files a false complaint or provides false information to University officials investigating a complaint shall be deemed to have violated this Policy. This is not in any way meant to discourage legitimate complaints or consultation.

VII. Procedures

The following procedures have been developed to receive and investigate harassment complaints. Any person who believes that s/he has been subjected to harassment may elect to pursue the matter as either an informal or formal complaint.

A. Where to Get Help--Informal Complaints.

The persons listed below have been designated as the contact person(s) for informal complaints and to provide information and consultation regarding harassment prohibited by this Policy:

Informal complaints against students involving conduct in the residence halls should be directed to the Resident Advisor, Residence Hall Coordinator, or the Director of Housing and Residence Life. All other informal complaints against undergraduate students should be reported to the Dean of Students or the Office of Equal Opportunity and Title IX ("EOTIX"). Informal complaints against graduate or professional students should be directed to EOTIX or the Dean of the accused's or the complainant's School or College. It is recommended that the complainant keep a record of prohibited conduct such as a journal of their experiences, reflecting dates, times, places, nature of the incident, and names of any witness(es).

Informal complaints directed against staff should be reported to the employee's immediate supervisor, department head, unit vice president, Vice President for Human Resources, or EOTIX. Informal complaints directed against faculty should be reported to the faculty member's Chair, Dean, Vice President of Academic Affairs, or EOTIX.

All complaints involving persons who are not members of the University community, such as employees of outside vendors, should be reported to Equal Opportunity and Title IX.

Informal resolutions are designed to operate in an expeditious manner and to empower the parties to reach a mutually satisfactory agreement with the assistance of a neutral third party. The contact person does not make a determination of fact as to whether University policy has been violated as part of the informal resolution process. Instead, the contact person will use conflict resolution techniques to attempt to resolve the concern(s) brought forward in a manner that is satisfactory to all parties. Informal resolution is flexible and invites active participation of all the parties in order to resolve the matter. Moreover, the contact person will only speak to the individuals whose involvement is necessary to facilitate a resolution. In some instances, this might include only the parties directly involved. The informal complaint may be concluded by one of the following: (1) the complainant, or the designated contact person, may meet with the accused, discuss the behavior of the accused, and request that such behavior be stopped, (2) a resolution of the informal complaint by agreement of the parties, (3) a decision to stop further action on the informal complaint, or (4) initiation of a formal complaint. Possible resolutions by agreement of the parties may include, but are not limited to: an apology to the complainant, assisting the respondent to better understand the effects of their conduct and ways in which this

behavior could be changed, participation in educational programs about equal opportunity or harassment, verbal or written reprimands, or other interventions or actions aimed at ending the misconduct.

An employee may initiate the formal complaint process at any time. The University administration reserves the right to initiate the formal complaint process outlined below after taking into consideration the nature and seriousness of the complaint, and whether the accused has previously been found in violation of this Policy or the *Title IX Sexual Harassment Policy*.

B. Formal Complaints.

All formal complaints involving faculty, staff, volunteers, student-workers (acting in their capacity as a student-worker), or persons who are not members of the University community should be directed by the complainant or referred by University personnel to the EOTIX. All formal complaints against students will be referred to the Office of Student Responsibility and Community Standards and addressed pursuant to the Code of Student Conduct.

All employees and students have an obligation to cooperate with the formal complaint process. Failure to do so may result in disciplinary action. In the event that a complainant does not cooperate by failing to furnish information requested by the investigator or to make themselves available for interview by the investigator, the Director may dismiss the Complaint. The Director shall provide written notice of such dismissal to the complainant(s) and the respondent(s). In the event that a respondent does not cooperate by failing to furnish information requested by the investigator or to make themselves available for interview by the investigator, the investigator may conclude that such information or interview, if provided or conducted, would be adverse to the respondent.

Equal Opportunity and Title IX (EOTIX), or appropriate designee, is responsible for processing and investigating formal complaints against faculty and staff. Prior to initiating the investigation, EOTIX will contact the two levels of supervision above the accused and the appropriate Vice President to give notice of the complaint and the pending investigation. If EOTIX is investigating a complaint against a student-worker, the Office of Student Responsibility and Community Standards will be notified.

In order to conduct an initial review of the complaint and determine if an investigation is warranted, the EOTIX ordinarily will require the complainant to submit a written complaint. The complaint should be signed and dated by the complainant and set forth in writing the particulars relating to the alleged harassment, including the name and position of the accused. EOTIX will investigate the complaint with assistance from Human Resources or personnel from other appropriate units as needed. Alternatively, EOTIX may refer the complaint to some other suitable authority for investigation and possible action. Depending on the nature and severity of the allegations, steps may be taken to separate the accused and the complainant, up to and including suspension from employment pending investigation.

The investigation will include interviews of the complainant and the accused. The accused will be furnished with a copy of the complaint and will have an opportunity to respond and submit additional information. EOTIX will interview other witnesses and collect such additional information as EOTIX deems reasonably necessary to determine whether a violation of this Policy did or did not occur. Within a reasonable period of time after commencing the investigation, EOTIX will submit a report to the appropriate Vice President, the accused, and the complaining party outlining EOTIX's findings and any recommended disciplinary or corrective action. If the complaint is against a student-worker, EOTIX will

also provide a copy of the report to the Office of Student Responsibility and Community Standards.

Within five (5) working days from receipt of the report, the complainant or the accused may file a written request for reconsideration to the EOTIX with a statement of the specific reasons for setting aside the findings or recommendations. EOTIX will forward the request for reconsideration with a copy of the investigation report to the appropriate Vice President. The Vice President will review the record of the investigation conducted by EOTIX and may seek additional information and consult with EOTIX or any other person, including the complainant or the accused, as needed. Ordinarily, the Vice President will accept the investigation report, except where the Vice President concludes that the findings or the recommended actions are not reasonable or supported by the record. The Vice President also may recommend more or less severe disciplinary or other corrective action depending upon the circumstances in any particular case including, but not limited to, the prior employment record of the accused and due consideration for effective enforcement of this Policy. After reviewing the investigation report and any request for reconsideration, the Vice President will, within a reasonable time, not to exceed thirty (30) days, issue a written decision accepting or rejecting the investigation report using a preponderance of the evidence standard and outlining any disciplinary actions or proceedings that will be initiated. A copy of the decision will be sent to the accused, the complainant, and EOTIX.

In any instance where the accused is an officer of the University, EOTIX will consult with the appropriate higher ranking official(s) and a representative of the General Counsel's Office for direction on administering the complaint.

C. Disciplinary Action.

The appropriate Vice President is responsible for ultimately determining whether disciplinary action is warranted and invoking the applicable University disciplinary policies and procedures. Potential disciplinary actions implemented under this Policy may include but will not be limited to, formal warning, mandatory training and education, transfer, demotion, suspension, probation, or separation from the University, residence hall reassignment, and termination of relationships with outside contractors and vendors. The Vice President may take reasonable and necessary interim action until an investigation can be completed or a final disciplinary action can be implemented.

All interim and final disciplinary or corrective action shall be initiated consistent with the specific policies and procedures applicable to faculty, staff, or students depending upon the particular status of the accused. Disciplinary action against undergraduate students will be processed under the Code of Student Conduct contained in the Student Handbook of Saint Louis University. Cases involving disciplinary action against graduate or professional students will be referred to the Dean of the respective School or College for handling under policies and procedures governing Harassment or matters relating to the student's qualifications and fitness to continue in a particular program. Disciplinary action against faculty will be governed by the procedural requirements and standards contained in *The Faculty Manual of Saint Louis University*. Depending on the nature of the action(s) sought by the University administration, the faculty member may invoke the grievance procedures, procedures for challenging serious sanctions short of termination, or the procedures for challenging termination for cause set out in *The Faculty Manual*. Any disciplinary action against staff will be implemented consistent with the policies and procedures set forth in the Human Resources Policies and/or the Staff Handbook of Saint Louis University

except where otherwise provided for employees who are covered by a collective bargaining agreement. All disciplinary actions are to be communicated to EOTIX.

D. Notice of Outcome.

The University will inform the accused, complainant, and any other persons who have a legitimate need to know of the general outcome of any informal or formal complaint. Disclosure of information involving students shall be subject to any legal requirements including the Family Educational Rights and Privacy Act ("FERPA") and the Jeanne Clery Campus Safety Act (Clery Act). All reasonable measures will be taken to protect the privacy of those involved in the complaint.

VIII. Confidentiality and Non-Retaliation Statement

The University recognizes the sensitive nature of harassment complaints. It endeavors within this Policy to respect the rights and dignity of all persons involved and to provide a neutral atmosphere in the investigation of complaints and in its efforts to end prohibited behavior. The University endeavors to maintain confidentiality on all matters relating to processing harassment complaints, subject to its need to effectively administer this Policy.

The University will not tolerate retaliation against any person who, in good faith, makes a harassment complaint, exercises their rights under this Policy, or cooperates or participates in any internal or external investigation or proceedings. Retaliation refers to any action that could discourage a reasonable person from filing a complaint or cooperating with the investigation process. Retaliation constitutes a violation of this Policy.

IX. Review and Approval

Changes to this Policy may be necessary from time to time. At a minimum, this Policy shall be subject to annual review for compliance with applicable law, available guidance, and assessment of best practices. This Policy has been reviewed and approved by the Vice President of Human Resources, Vice President and General Counsel, and the University's Title IX Coordinator. This Policy has been approved by the President's Coordinating Counsel.

X. Resources

University Resources:

Department of Public Safety (DPS)

Wool Center, Room 114

Emergencies: (314) 977-3000

General Information: (314) 977-2376

Employee Assistance Program (EAP)

(800) 859-9319

Housing and Residence Life

DuBourg Hall, Room 157

(314) 977-2811

Office of Institutional Equity and Diversity (OIED)

DuBourg Hall, Room 36

(314) 977-3838

Office of Student Responsibility and Community Standards

Busch Student Center, Suite 350

(314) 977-7326

Saint Louis University HOT-LINE

(877) 525-5669 or (877) 525-KNOW

Title IX Coordinator

DuBourg Hall, Room 36

(314) 977-3838

Other Resources:

U.S. Department of Education

Office for Civil Rights

Lyndon Baines Johnson Department of Education Building

400 Maryland Avenue, SW

Washington, DC 20202-1100

(800) 421-3481

Email: OCR@ed.gov

U.S. Department of Justice

Civil Rights Division

950 Pennsylvania Avenue, N.W.

Office of the Assistant Attorney General,

Washington, D.C. 20530

(202) 514-4609

U.S. Equal Employment Opportunity Commission

Robert A. Young Federal Building

1222 Spruce St., Rm 8.100

St. Louis, MO 63103

(800) 669-4000