University Policy

Volume G1: Governance

G1.09 Sexual Harassment
Effective Date: 07/08/14

POLICY STATEMENT

It is the policy of Northeastern Illinois University (Northeastern or the “University”) to maintain an academic and work environment free from sexual harassment for students, faculty, staff, and guests. Sexual harassment is contrary to the health and stability of the University community, diminishes individual dignity, impedes employment and educational opportunities, and prevents equal access to academic inquiry. Sexual harassment is a barrier to fulfilling the University’s educational, service and scholarly missions, and will not be tolerated at Northeastern Illinois University.

PURPOSE OF THE POLICY

This policy furthers Northeastern’s commitment to providing campuses free from all forms of discrimination, including sexual harassment. The purpose of this policy is to maintain an open learning and working environment free from sexual harassment and the fear that sexual harassment may occur.

WHO IS AFFECTED BY THIS POLICY

This policy applies to all members of the University community: applicants; students; employees; and visitors. It applies to incidents that occur on University property, as well as at off-campus functions sponsored or supervised by the University.

DEFINITIONS

Complainant: An applicant, student, employee or visitor to the University who alleges and/or files a formal complaint of sexual harassment.

Respondent: A student, employee or visitor to the University who is accused in an allegation and/or a formal complaint of sexual harassment.

Sexual Abuse: Sexual abuse means sexual penetration by force or the threat of force. However, if a victim is under the age of 17 or if the victim is unable to understand the nature of the act or give knowing consent, sexual abuse does not need to include penetration. Sexual abuse is a type of sexual assault and constitutes a severe form of sexual harassment that violates this policy, the University’s Sexual Assault policy, and the Illinois Criminal Code.

Sexual Assault: Sexual assault is a type of sexual harassment that violates this policy, the University's sexual assault policy, and the Illinois Criminal Code. It includes:
- An act of sexual penetration or sexual conduct by the use of force or threat of force, including threatening or endangering the life of the victim or any other person; or
- An act of sexual penetration or sexual conduct where the accused knew that the victim was unable to understand the nature of the act or was unable to give knowing consent; or
- An act of sexual penetration or sexual conduct with a victim who was under age 17 when the act was committed, or with a victim who was under age 18 when the act was committed and the accused was age 17 or more and held a position of trust, authority, or supervision in relation to the victim; or
• An act of sexual penetration or sexual conduct in which the accused delivered any controlled substance (by injection, inhalation, ingestion, transfer of possession, or any other means) to the victim without his or her consent, or by threat or deception, and for other than medical purposes.

Sexual Harassment: Sexual harassment is a form of sex discrimination when the conduct is based on an individual's sex, gender, or sexual orientation. It includes any unwelcome advances, requests for sexual favors, or any verbal or physical conduct of a sexual nature when:
• Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, living environment, or participation in a University activity;
• Submission to or rejection of such conduct by an individual is used as the basis for, or a factor in, such decisions affecting employment, education, living environment, or participation in a University activity; or
• Such conduct has the purpose or effect of unreasonably interfering with an individual's employment or educational performance or creating an intimidating, hostile, offensive, or abusive environment for that individual's employment, education, living environment, or participation in a University activity.

Sexual Misconduct: Sexual misconduct is misconduct of a sexual nature and constitutes a type of sexual harassment. Such behavior will be reviewed under this policy and/or the University's Sexual Harassment policy. Such misconduct includes but is not limited to: intentional and undesired physical contact; stalking; attempted or actual kissing or fondling; domestic/intimate partner violence; coerced sexual activity; indecent exposure; repeated unsolicited propositions for dates and/or sexual relations; and other conduct of a sexual nature including speech that is nonconsensual or has the purpose or effect of threatening, intimidating or coercing (physically or psychologically) a person.

REGULATIONS

Illinois Human Rights Act (IHRA)
Title IX of the Education Amendments Act of 1972 (Title IX)
Title VI of the Civil Rights Act of 1964 (Title VI)
Title VII of the Civil Rights Act of 1964 (Title VII)

PROCEDURES

SEXUAL HARASSMENT: Sexual harassment includes any unwelcome conduct of a sexual nature when:
• Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education status in an academic course or program, or participation in an activity;
• Submission to such conduct, or rejection of such conduct, by an individual is used as the basis for employment decisions or a decision affecting an individual’s education, status in an academic course or program, or participation in an activity; or
• Such conduct has the purpose or effect of reasonably interfering with an individual’s work or academic performance or creating an intimidating, hostile, or offensive working or educational environment. Generally, a pattern of unwelcome behavior is required; however, if sufficiently severe, one incident may constitute a hostile environment.

Examples of conduct that may constitute sexual harassment include, but are not limited to:
• Unwanted sexual statements – sexual or “dirty” jokes, comments on physical attributes, spreading rumors about or rating others as to sexual activity or performance, talking about one’s sexual activity in front of others, and displaying or distributing sexually explicit drawings, pictures, and/or written material. Unwanted sexual statements can be made in person, in writing, electronically (email, text/picture/video messages, instant messaging, blogs, social network sites, web pages, etc.) and otherwise.
• Unwanted personal attention – letters, telephone calls, visits, pressure for sexual favors, pressure for unnecessary personal interaction, pressure for dates where a sexual/romantic intent appears evident but remains unwanted, and stalking.
• Unwanted physical or sexual advances – touching, kissing, hugging, fondling, touching oneself sexually in the view of others, sexual assault, intercourse, or other sexual activity.
• Sexually explicit materials – sexually explicit materials in the workplace or learning environment that have no relationship to the curriculum can constitute or contribute to a sexually harassing environment for employees and students. Such materials can be in the form of music, documents, photographs, film, or computer generated materials. A complaint of harassment may include allegations of sexually explicit materials.
• **Textual/Electronic** “sexting” (electronically sending messages with sexual content, including pictures and video) – sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and social network websites such as Facebook and Twitter).

Conduct alleged to be sexual harassment will be evaluated by considering the totality of the particular circumstances, including the nature, frequency, intensity, location, context, and duration of the questioned behavior. Although repeated incidents generally create a stronger claim of sexual harassment, a serious incident, even if isolated, can be sufficient.

This policy addresses intentional conduct. It also addresses conduct that results in negative effects even though such negative effects were unintentional. Sexually-related conduct forms the basis of a sexual harassment claim if a reasonable person, in view of all the surrounding circumstances, would consider it sufficiently severe, persistent, or pervasive as to interfere unreasonably with academic, other educational, or employment performance or participation in a University activity or learning environment.

In accordance with the sexual harassment policy, Northeastern expressly prohibits:

- **Amorous or sexual relationships between faculty members and students** who are enrolled in their classes or subject to their supervision (including student workers, interns, etc.);
- **Amorous or sexual relationships between faculty, staff or graduate assistants and students for whom they have any teaching responsibility**, including counseling, advising, or supervision over independent studies, research or theses; or
- **Amorous or sexual relationships between supervisors and employees** who report directly to them or who are supervised in a vertical organizational capacity (e.g., an employee who has a relationship with a supervisor’s supervisor).

Where an amorous or sexual relationship exists or develops between individuals in a University relationship entailing a power differential, the individual with the greater presumption of power must disclose the relationship immediately.

- In the case of a **faculty member**, the supervisor to whom the relationship is disclosed will contact the Office of the Provost for assistance in avoiding the appearance of impropriety and a potential conflict of interest.
- In the case of a **supervisor**, the individual’s supervisor, or the administrator to whom the relationship is disclosed, will contact the Director of Human Resources Employee and Labor Relations for assistance in avoiding the appearance of impropriety and a potential conflict of interest.

**TITLE IX**: Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination on the basis of sex in education programs and activities receiving federal financial assistance. Sexual harassment of students is prohibited by Title IX. Northeastern’s Title IX Coordinator is the Director of Equal Opportunity, Affirmative Action and Ethics Compliance. Any Title IX complaints should be directed to this office, where they will be handled according to the procedures set forth below. The Title IX Coordinator may investigate allegations of sexual harassment prohibited by Title IX even absent the filing of a formal grievance or its subsequent withdrawal. In addition, the Title IX Coordinator may proceed with a formal or informal investigation even if a Complainant specifically requests that the matter not be pursued. In such a case, the Title IX Coordinator will take all reasonable steps to investigate and respond to the matter in a manner sensitive to the Complainant’s concerns.

**RETALIATION**: It is unlawful to retaliate against an individual for opposing practices that constitute sexual harassment for a protected class, or for filing a harassment charge, testifying, or participating in any way in an investigation, proceeding, or litigation. Northeastern strictly prohibits and will not tolerate reprisals or retaliation against persons due to their assertion of protected civil rights or their participation in the pursuit of the protected civil rights of others.

**FALSE AND FRIVOLOUS COMPLAINTS**: Sexual harassment is a serious matter and can have far-reaching effects on the lives and careers of individuals. Intentionally false accusations can have a similar impact. A person who knowingly and intentionally files a false complaint under this policy is subject to University discipline as described more fully in the Sanctions section, below.
A student, employee or visitor to the University who either observes or believes oneself to be the object of sexual harassment should address the incident(s) as directly and firmly as possible by clearly communicating her/his position to the supervisor or department chair, the Director of Equal Opportunity, Affirmative Action and Ethics Compliance (Director of EO) and to the University employee or student at issue. Each incident of sexual harassment should be documented or recorded by the individual to whom the complaint is made. Documentation need not be formal but should include the time, date, and details of the incident. The documentation may be augmented by written records such as letters, notes, memos, emails, text messages, online postings, blogs, and telephone messages.

**DIRECT COMMUNICATION:** A student, employee or visitor to the University who has observed or been subjected to sexual harassment should directly and clearly express an objection. An individual subjected to sexual harassment should immediately indicate that the conduct is unwelcome and request that the offending behavior stop.

**CONTACT SUPERVISORY PERSONNEL:** At the same time direct communication is undertaken or in the event the individual feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor, the classroom faculty member, Director of Student Rights and Responsibilities, or the Director of EO. If the harasser is the immediate supervisor or the faculty member of a student, the problem should be reported to the next level of supervision or to the Director of EO. Complaints resolved at the unit or departmental level shall be reported in writing to the Director of EO by the head of the unit or department.

**CONFIDENTIAL COUNSELORS:** A student may choose to contact Northeastern’s Office of Student Health and Counseling Services. The counselors in this office are legally privileged to keep communications confidential. Because these communications are confidential, reporting an incident to Northeastern’s Student Health and Counseling Services does not constitute the reporting of an incident or sexual harassment to the University. After discussing any concerns with a confidential counselor, the student may choose to contact supervisory personnel or to file a complaint of sexual harassment with the Director of EO. Employees may contact the Office of Student Health and Counseling Services for referrals only.

Employees can discuss sexual harassment concerns as well as any other workplace issue with the Employee Ombuds. Reporting potential incidents of sexual harassment to the Employee Ombuds does not serve as legal notice to the University of a concern and will not trigger a legal obligation to investigate. Information shared with the Employee Ombuds will be kept confidential except when the Ombuds believes there is an imminent risk of serious harm, suspects child abuse or neglect, or is compelled by a court. Since reporting potential incidents to the Employee Ombuds does not constitute providing legal notice to the University of a concern, anyone who wants to “put the University on notice” must contact the Director of Student Rights and Responsibilities (for students) or the Director of EO (for employees or University visitors) to initiate this process. Employees may also seek help from the Employee Assistance Program or through Human Resources at 773-442-5202.

**FILING A COMPLAINT:** A student, employee, applicant or visitor to the University may report incidents of sexual harassment directly to the Director of EO. Such reporting must be initiated by filing a complaint form with the Director of EO (see Appendix A). The Director of EO will counsel the reporting individual (the Complainant) and assist with filing a complaint. A complaint of sexual harassment against the Director of EO should be filed with the President, who will appoint a neutral party to fulfill the role of the Director of EO. A complaint of sexual harassment against the President should be filed with the Chair of the Board of Trustees, via the Board Liaison. The Chair will take appropriate steps to investigate and resolve the complaint. In the event that a complaint of sexual harassment is filed against the General Counsel, the President will designate an outside investigator to ensure that an appropriate, independent investigation is undertaken.

**INVESTIGATION:** Appendix B sets forth the University’s procedures for sexual harassment cases. The Grievance Procedure applies to cases involving discrimination and/or harassment, including sexual harassment, or sexual assault. Employees are required to comply fully with investigations.

**SANCTIONS/DISCIPLINE:** The imposition of sanctions or discipline, if recommended, will proceed in accordance with Illinois and federal statutes and relevant University policy, collective bargaining agreement,
rules and regulations. For employees, disciplinary action may be imposed up to and including termination of employment. For students, disciplinary action may be imposed up to and including the removal of the student from the University community. If there is a finding of sexual harassment against a visitor, the University may impose sanctions including, but not limited to: prohibition from entering campus, or other action to prevent contact with the victim of harassment.

AUTHOR REFERENCE

(See Regulations section above)

HISTORY

Formerly Sexual Harassment policy E2.10, Effective Dated 5/17/2012, formerly Administrative Memorandum No. 6 Policy on Sexual Harassment, Effective Dated 3/1/1999

APPENDIX

Appendix A, Sexual Harassment Complaint Form
Appendix B, Grievance Procedure

RELATED POLICIES AND OTHER INFORMATIONAL MATERIAL

Equal Opportunity and Nondiscrimination Policy
Sexual Assault Policy
E1.04.1 Nepotism and Personal Relationships, Effective Dated 10/01/2013
Board of Trustees Governing Policies, Article II, Section 4 University Employees and Section 7 Students Hiring Manual

Resolution Outside Northeastern
The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every complaint and incident so that problems can be identified and remedied internally. However, an employee has the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) about filing a formal complaint. An IDHR complaint must be filed within 180 calendar days of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must be filed within 300 calendar days. In addition, an appeal process is available through the Illinois Human Rights Commission, (IHRC) after IDHR has completed its investigation of the complaint.

Illinois Department of Human Rights (IDHR)
Chicago: 312-814-6200 or 800-662-3942 (TTY: 866-740-3953)
Springfield: 217-785-5100 (TTY: 866-740-3953)

Illinois Human Rights Commission (IHRC)
Chicago: 312-814-6269 (TTY: 312-814-4760)

U.S. Department of Education’s Office for Civil Rights (OCR)
An individual may also file a sexual harassment complaint online with the U.S. Department of Education’s Office for Civil Rights regarding an alleged violation of Title IX or call 1-800-421-3481.

CONTACT INFORMATION
Please direct questions or concerns about this policy to:

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<th>Contact</th>
<th>Phone</th>
<th>E-Mail</th>
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<tr>
<td>Director, Office of Equal Opportunity,</td>
<td>773-442-5412</td>
<td><a href="mailto:eeo@neiu.edu">eeo@neiu.edu</a></td>
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<td>Affirmative Action and Ethics Compliance</td>
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**DISCLAIMER**

The University reserves the right to modify or amend sections of this policy at any time at its sole discretion. This policy remains in effect until such time as the Responsible Officer calls for review. Requests for exception to any portion of this policy, but not to the policy statement, must be presented in writing to the Responsible Officer.