

Sexual Harassment Policy for Employees



Arkansas State University is an equal opportunity institution and will not discriminate on the basis of race, color, religion, sex, national origin, age, handicap, or other unlawful factors in employment practices or admission and treatment of students. Any questions regarding this policy should be addressed to the Coordinator of Equal Opportunity and Affirmative Action, Arkansas State University, P.O. Box 2100, State University, Arkansas 72467. Telephone (870) 972-3454.



Arkansas State University

Sexual Harassment Policy For Employees

(For the purposes of this policy, “employees” are defined as both faculty and staff at Arkansas State University. Students employed as work-study or part-time are addressed by a separate policy)

I. Policy

A. Policy statement

It is the policy of Arkansas State University to provide an educational and work environment in which students, faculty and staff are encouraged to think, grow and develop to realize their full potential. In light of a commitment to provide a caring community, as stated in the university’s mission statement, sexual intimidation and exploitation are strictly prohibited. Such behavior undermines the atmosphere of trust and respect that is vital to a healthy work and academic environment.

The university’s prohibition of any type of sexual harassment applies to members of the university community, to visitors to the campus, and to others who do business with the university or who use the university facilities. The policy prohibiting such behavior applies to sexual harassment which takes place in any relationship, including both those involving a power differential and those between peers, colleagues, and co-workers.

Members of the university community are encouraged to report any incident they believe to be sexual harassment to the proper authority defined elsewhere in this document. Persons found to be in violation of this policy will be subject to disciplinary action which may include, but is not limited to, written warning, demotion, transfer, suspension or dismissal.

B. Legal authority

Sexual harassment is a form of sex discrimination which is prohibited by Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. Those who engage in such behavior may be subject to legal consequences, including civil and criminal penalties and monetary damages. Sexual harassment is also in violation of the university’s Equal Opportunity/Affirmative Action policy.

C. Definition

Sexual harassment may involve the behavior of a person of either sex against a person of the opposite or same sex. According to the definition provided by the U.S. Equal Employment Opportunity Commission, sexual harassment (as applied to the employment and academic environments) consists of unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal or physical behavior of a sexual nature when:

- (1) submission to or rejection of the conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
- (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual’s welfare; or
- (3) such conduct has the purpose or effect of substantially interfering with an individual’s welfare or work performance, or creates an intimidating, hostile, offensive, or demeaning work environment.

Sexual harassment is distinguished from *voluntary* sexual relationships in that it may involve coercion, threat, unwanted sexual attention and/or promises of professional rewards in exchange for sexual favors. Sexual harassment is *unwelcome* behavior and does not include consensual relationships.

D. Examples of prohibited behavior

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples may include, but are not limited to:

- (1) unwelcome sexual propositions, invitations, solicitations and flirtations
- (2) threats or insinuations that a person's employment, wages, promotional opportunities, or other conditions of employment may be adversely affected by not submitting to sexual advances
- (3) unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene phone calls, mail or electronic mail
- (4) sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work area, that may embarrass or offend individuals. Such material, if used in an educational setting, should be related to educational purposes
- (5) unwelcome and inappropriate touching, patting, pinches, shoulder rubs, etc.

Responsibility

All members of the university community are urged to report incidents of sexual harassment to the Human Resources Department. These reports will be handled in strict confidence.

An initial course of action for any employee who feels that he or she is being sexually harassed is for that person to tell the harasser that the conduct is unwelcome and must stop. However, in some circumstances this may not be possible, may be unsuccessful, or the individual may be uncomfortable dealing with the matter in this way. To encourage those who believe they have observed or are experiencing sexual harassment to come forward, the university provides several channels of communication and both informal and formal complaint procedures outlined on the following pages.

Procedures for filing complaints

Charges of sexual harassment will be dealt with promptly and fairly to maintain the rights and dignity of the university community. The following procedures for filing complaints of sexual harassment are available to all employees.

Grievance procedure

Step 1: Informal mediation

The complainant should register an informal complaint with the Department of Human Resources within 30 days of the alleged incident.

If possible, the incident may be resolved through this meeting, and a memo issued to that effect will be signed by all parties. *The university assumes a responsibility to investigate all complaints of sexual harassment with or without permission of the alleged victim.*

Step 2: Formal complaint

If steps taken in the informal mediation (detailed above) do not resolve the situation to the satisfaction of the complainant, he or she may file a formal complaint with the Human Resources Department. This formal complaint (called a grievance) should be in writing and filed within 60 days of the alleged incident.

The formal charge must contain:

- the grounds on which the sexual harassment charge is alleged
- the remedy sought
- the names of the witnesses who will be called to testify
- any other information related to the charge.

After receiving the formal charge, the Human Resources representative will send a copy to the alleged harasser.

After the formal complaint has been filed, a Human Resources representative will meet with the parties involved and

gather data. At this point, if a resolution is reached, the complaint will be reduced to writing and the matter will be considered settled by all parties.

If the Human Resources Department determines that *insufficient evidence exists* to support a claim of sexual harassment, the complainant will be advised that grounds for a formal complaint will not be considered.

A complainant whose accusations are found to be both false and brought with malicious intent will be subject to disciplinary action, which may include, but is not limited to, written warning, demotion, transfer, suspension or dismissal.

Appeal

The complainant will be permitted to appeal -- in writing -- the decision to deny the original complaint. The written appeal should be directed to the appropriate University Hearing Committee. The committee has the authority to allow the complainant to re-open the charge in a formal complaint. The appeal presented to the University Hearing Committee must explain, in detail, why the charge should be re-opened. The committee will give its decision on this appeal within 15 calendar days.

The Grievance hearing

The University Hearing Committee will meet to hear testimony for both sides of the charge to determine the validity of the accusations. Any other individual deemed necessary by either party or the committee will also be heard. All hearing proceedings will be conducted in strict confidence.

Hearings will not be conducted without the complainant or respondent being present unless either desires to be absent. Each party has the right to cross-examine anyone giving testimony; committee members also have the same right.

Proceedings at the hearing will be recorded. After a determination has been made, the committee will submit written findings (including a decision on the validity of the accusation) to the President of the University, with a copy to each party. The President may accept the findings or take any other action deemed necessary, including, but not limited to, conducting another grievance hearing process or having an independent

investigation by a person/persons functioning in an ombudsman role.

Disciplinary action

If a charge of sexual harassment against an employee is found to be valid, one or more of the following actions may be taken:

- a letter of reprimand will be placed in the offender's personnel file,
- disciplinary actions deemed appropriate for the violation, taking the committee's recommendation into consideration,
- termination

Non-retaliation clause

Any member of the university community who reports or files a complaint of sexual harassment will not suffer retaliation in any form.

Interpretation of the policy

If any member of the university community needs further clarification of this policy, he/she should contact the Department of Human Resources.