

SEXUAL HARASSMENT, SEXUAL ASSAULT AND OTHER FORMS OF SEXUAL MISCONDUCT, POLICY ON

Division: Equity and Campus Diversity

Responsible Office: Equity and Campus Diversity Office

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POLICY SUMMARY

Buffalo State is committed to ensuring a safe learning environment free of acts of violence, harassment and other forms of sexual misconduct that serve to threaten and undermine our mission and character as an educational institution. It should be noted that sex discrimination includes sexual harassment and sexual assault.

POLICY STATEMENT

It is the policy of Buffalo State University to provide an employment and educational environment free of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication, constituting sexual harassment as defined and otherwise prohibited by state and federal statutes.

SCOPE

This policy applies to all students, administrators, faculty, staff and guests. It is everyone's responsibility to report any incidents of sexual assault or harassment of which they become aware that compromise the wellbeing of an individual or the campus community.

RATIONALE

The U.S. Equal Employment Opportunity Commission (EEOC) has issued guidelines interpreting Section 703 of Title VII as prohibiting sexual harassment (29 CFR 1604.11). Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or education, or creating an intimidating, hostile, or offensive working or learning environment.

Examples of sexual harassment include, but are not limited to:

- Verbal abuse or hostile behavior such as insulting, teasing, mocking, degrading or ridiculing another person or group.
- Unwelcome or inappropriate physical contact, comments, questions, advances, jokes, epithets or demands.
- Physical assault or stalking.
- Displays or electronic transmission of derogatory, demeaning or hostile materials,

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- Engaging in behavior that is invasive or disruptive for the purpose of initiating a sexual or romantic relationship with that person.

DEFINITIONS

Sexual assault: A sexual act against the will and without the consent of the victim. While defining consent in sexually intimate relationships can be difficult, some examples of sexual assault include, but are not limited to:

- Sexual contact with someone whom you reasonable should have known was impaired due to the use of alcohol or other drugs
- Sexual contact with someone who is “passed out” or sleeping
- Sexual contact with someone who is unable to say “no” and/or change his/her mind due to the presence of coercion or intimidation
- Sexual contact with someone who is under the legal age to consent

Other forms of sexual misconduct: Other forms (in addition to sexual harassment and sexual assault) of sexual misconduct that compromise the well-being of a student are also subject to review at the university. Examples of such misconduct may include, but are not limited to, actions that are sexually exploitative or degrading, retaliatory and/or abusive acts directed toward former relationship partners, or retaliatory/abusive actions directed toward someone who has rejected the efforts of another to establish a relationship. For additional information please see the [Codes of Sexual Misconduct](#).

IMPLEMENTATION

It shall be a violation of university policy for anyone who is in a position of authority to recommend or take personnel actions affecting an employee, or who is otherwise authorized to transact business or perform other acts or services on behalf of the university:

- To make sexual advances or request sexual favors when submission to or rejection of such conduct is the basis for either implicitly or explicitly recommending, imposing, granting, withholding or refusing terms and conditions that either favor or adversely affect the employment or education of any member of the university community;
- To recommend, impose, grant, withhold or refuse to take any personnel or other action consistent with his or her duties and responsibilities because of sexual favors or as a reprisal against an employee or other member of the university community who has rejected or reported sexual advances;
- To disregard and fail to investigate allegations of sexual harassment whether reported by the employee or member of the university community who is the subject of the alleged harassment or a witness, and to fail to take immediate corrective action in the event misconduct has occurred.

It shall also be a violation of this policy for any member of the university community to abuse another through conduct or communication of a sexual nature and constituting sexual harassment as defined in Section III above. Whenever such misconduct exists, prompt and corrective action consistent with the discipline provisions of the university policy is required.

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Whenever there is an abuse of authority or neglect of responsibility, the supervisor or other responsible individual is required to take prompt and corrective action consistent with the discipline provisions of the university policy.

The violation of this policy can result in discipline and discharge for employees; and such penalties, sanctions and impositions against other individuals or parties as may be available to the university, given the nature of the contractual or business relationship that may be established with such parties or individuals. Reporting an incident of sexual harassment, sexual assault, or other sexual misconduct is the responsibility of all campus employees.

GRIEVANCE PROCEDURES

Employees or other individuals who feel aggrieved because of sexual harassment have several ways to make their concerns known:

- Aggrieved persons who feel comfortable doing so should directly inform the person engaging in discrimination or conduct or communication that such conduct or communication is offensive and must stop.
- Aggrieved individuals who do not wish to communicate directly with the person whose conduct or communication is offensive, or if direct communication with the offending party has been unavailing, shall contact the offending party's immediate supervisor and/or the officer responsible for affirmative action for counseling and assistance.
- Aggrieved persons alleging either sexual harassment by anyone with supervisory authority, or failure by a supervisor to take immediate action on the individual's complaint, may also file a formal grievance in accordance with the provisions of the appropriate grievance procedure.

All formal complaints of sexual harassment will be handled by the SUNY Grievance Procedure for the Review of Allegations of Unlawful Discrimination. The Buffalo State Grievance Procedure for the Review of Allegations of Unlawful Discrimination has specific timetables for filing complaints and a process for adjudicating the complaint. A copy of the procedure is available through the vice presidents, deans and the Equity and Campus Diversity Office.

Regardless of the means selected for resolving the problem, the initiation of a complaint of sexual harassment will not cause any reflection on the complainant nor will it affect such person's future employment, education, compensation or work assignments.

RESPONSIBILITY OF MANAGEMENT AND OTHER UNIVERSITY PERSONNEL

All levels of management have a special responsibility for implementation of this policy. If behavior is observed which violates this policy, the person observing such behavior shall bring the matter to the attention of the supervisor responsible for that area and the officer responsible for affirmative action. If an employee or other individual files a complaint, the management representative with whom the complaint is filed shall inform the complainant of his or her right under this policy and attempt corrective action. When a problem is beyond the capability of such representative to effectively correct the action, the matter shall be referred to the [Title IX Coordinator](#).

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In all cases and regardless of the individuals' remedial measures that have been undertaken, the management representative to whom the written complaint has been referred shall provide the officer responsible for affirmative action with a complete written report of each complaint.

This report must be submitted within ten (10) days of the date the complaint was first filed with the management representative. Such report shall minimally include:

- Date of receipt of written complaint
- Identification of complainant
- Identification of the party or parties and the actions complained of, including all relevant background facts and circumstances
- A statement detailing the scope of the investigation that had been undertaken and the results thereof
- A statement of corrective measures pursued, the date such measures were undertaken and the results achieved

EDUCATION AND TRAINING

Sexual harassment may range from sexual innuendoes made at inappropriate times, perhaps in the guise of humor, to coerce sexual relations. Harassment at its extreme occurs when a person in control, influence, or position to affect another person's job or career uses his or her authority and power to coerce the other person into sexual relations or to punish such person's refusal. It may include:

- Verbal harassment or abuse
- Subtle pressure for sexual activity
- Persistent remarks about another person's clothing, body or sexual activities
- Unnecessary touching, patting or pinching
- Constant brushing against another person's body
- Demanding sexual favors accompanied by implied or overt threats concerning one's job, letters of recommendation, etc.
- Physical assault

Because sexual harassment is tied so closely to learned role models, it is necessary for men and women to learn more about this issue and the means for addressing problems as they arise. The university sponsors educational workshops on the subject of sexual harassment. Attendance at one of these programs or an approved substitution is mandatory for all persons in a supervisory or executive capacity. Each is also encouraged to hold educational workshops and otherwise seek to sensitize persons within their areas of responsibility as to the importance of providing an employment and business environment free of sexual harassment. Although there are various approaches one may take to offset potential problems, several measures are recommended:

- Encourage internal complaints. Express disapproval of harassment and inform employees of their right to file complaints under university policy.
- Assure that all supervisors are aware of their responsibilities, university policy, the laws and the potential liabilities when violations occur;
- Regard each claim of sexual harassment as being serious and investigate immediately;
- Sensitize all employees to the issue and the ramifications of sexual harassment.

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SPECIAL ASSISTANCE

In the implementation of this policy, it is expected that questions may arise concerning the interpretation of the prohibitions against sexual harassment, grievance procedures, the methods and procedures to be followed in the investigation of complaints, and the appropriateness of specific solutions in disposition of complaints. For assistance in these matters, please contact the Chief Diversity Officer, Equity and Campus Diversity Office, Cleveland Hall, Room 204, (716) 878-6210.

CONTACT INFORMATION

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REVISION HISTORY

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