

Transcript for Sexual and Discriminatory Harassment Policies and Procedures

UofL Commitment to Equal Education & Employment Opportunity

The University Louisville is committed to and will provide equality of educational and employment opportunity that emphasizes the dignity and worth of every member of its community.

The University will provide equal opportunity for all persons regardless of race, sex, age, color, national origin, ethnicity, creed, religion, disability, genetic information, sexual orientation, gender, gender identity and expression, marital status, pregnancy, or veteran status, – except where sex, age, or ability represent bona fide educational or employment qualifications or where marital or veteran status are statutorily defined eligibility criteria for federal or state benefit programs.

Consistent with state and federal law, reasonable accommodation will be provided to persons with disabilities.

Discriminatory Conduct

WHAT IS DISCRIMINATION?

Discrimination is conduct that is based upon an individual's race, sex, age, color, national origin, ethnicity, creed, religion, disability, genetic information, sexual orientation, gender, gender identity and expression, marital status, pregnancy, or veteran status, that;

- excludes an individual from participation;
- denies the individual the benefits of;
- treats the individual differently, or
- otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a University program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.

Harassment

WHAT IS HARASSMENT?

Harassment is conduct based upon an individual's race, sex, age, color, national origin, ethnicity, creed, religion, disability, genetic information, sexual orientation, gender, gender identity and expression, marital status, pregnancy, or veteran status. Harassing conduct may take various forms, including but not limited to:

- graphic statements
- written statements
- other conduct which a reasonable person would consider threatening or harmful.

Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. **SEX-BASED HARASSMENT** Sex-based harassment includes sexual harassment, which is further defined in the proceeding slides, and non-sexual harassment based on stereotypical notions of what is female/feminine v. male/masculine or a failure to conform to those gender stereotypes. Harassment violates this policy when it creates a hostile environment.

HOSTILE ENVIRONMENT

A hostile environment may occur if the harassment is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities; or when such conduct has the purpose or effect of unreasonably interfering with an individual's employment or education.

SEXUAL HARASSMENT

Sexual Harassment is unwelcome conduct of a sexual nature and can include unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, including sexual assault, sexual violence and stalking. It can involve persons of the same or opposite sex. There are two types of sexual harassment, Quid Pro Quo and Hostile Work Environment.

QUID PRO QUO

This type of sexual harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a University activity is conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a University program or activity. Generally, perpetrators will be agents, employees, or other individuals with authority from the University.

HOSTILE WORK ENVIRONMENT

The second type of sexual harassment may create a hostile environment if the harassment is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities; or when such conduct has the purpose or effect of unreasonably interfering with an individual's employment or education.

Violence Against Women Reauthorization Act (VAWA)

The University of Louisville prohibits sexual misconduct and assault, dating violence, domestic violence and stalking in support of the Violence Against Women Reauthorization Act. The

resources below provide our campus community members with assistance in dealing with issues of sexual misconduct:

- Center for Women and Families 877-803-7577
- PEACC 852-2663 or 714-8923 (24/7 Crisis Line)
- Human Development Company 589-HELP
- Employee Relations at UofL 852-6258.

VAWA DEFINITIONS:

KENTUCKY LAW Domestic Violence: KRS 403.720(1), domestic violence and abuse means physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple. **Stalking:** KRS 508.130(1) a) to "stalk" means to engage in an intentional course of conduct: 1. directed at a specific person or persons; 2. which seriously alarms, annoys, intimidates, or harasses the person or persons; and 3. which serves no legitimate purpose. b) the course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress.

VAWA DEFINITIONS: FEDERAL LAW

Dating Violence: 42 U.S. Code §13925(a)(10) the term "dating violence" means violence committed by a person – a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, (iii) the frequency of interaction between the persons involved in the relationship.

Sexual Assault: 42 U.S. Code §13925(a)(29) the term "sexual assault" means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

VAWA DEFINITIONS: CONSENT

Under Kentucky law (KRS 510.020(2-3)) lack of consent results from:

- a) Forcible compulsion;
- b) Incapacity to consent; or
- c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

A person is also deemed incapable of consent when he is:

- a) Less than sixteen (16) years old;
- b) Mentally retarded or suffers from a mental illness;

- c) Mentally incapacitated; or
- d) Physically helpless.

PREVENTION & AWARENESS

AT UofL In further support of VAWA, UofL provides prevention and awareness: PEACC coordinates the following programs: Take Back the Night (September) Week Without Violence International Women's Day Green Dot Pledge Week Men of PEACC Offered through PEACC Green Dot Training (Bystander Intervention) A green dot is any behavior, choice, word, or attitude that promotes safety for everyone and communicates intolerance for rape, domestic violence and stalking.

RETALIATION

Retaliation is action taken by an accused individual or an action taken by a third party against any person because that person has opposed discriminatory practices or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, or sexual misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing discriminatory practices. If you feel you are being retaliated against contact the Employee Relations Team. Contact information is provided at the end of this presentation.

A culture of RESPECT is core to the University's commitment to non-discrimination, affirmative action and diversity.

TEST YOUR KNOWLEDGE

QUESTION:

If you observe harassment taking place and are unsure of whether it is sexual harassment or discriminatory harassment, then it is best to let the people involved deal with it between themselves. TRUE/FALSE?

ANSWER: This is false. The Employee Relations team can help, even if you aren't sure that what you've experienced or witnessed is sexual or discriminatory harassment. Contact the team anytime you believe harassment may have taken place.

QUESTION:

If you report that your supervisor is harassing you or someone else, they may be allowed to terminate you for making the report and disrupting the work environment. TRUE/FALSE?

ANSWER: This is false. Retaliation for making a report of harassment is against University policy. There are methods of dealing with retaliation that occur in response to the filing of a good-faith report.

QUESTION:

Your department is seeking to hire a position that requires the employee to drive a vehicle from place to place across campus to make deliveries about 80% of the time. You interview a candidate who discloses that they are unable to drive a vehicle because of a medical condition and you decide not to hire based on this disclosure. Should you continue your search and choose not to hire this applicant? YES/NO?

ANSWER: No, you should not. Before proceeding or disclosing your decision to the applicant, you should contact the Employee Relations (ER) team in Human Resources. The Employee Relations team will talk through the situation and provide guidance which incorporates university policy and the Americans with Disabilities Act. They will discuss undue hardships, as well as bona fide educational qualifications. Before you make a quick decision, contact the ER team to gather all the information you need to make the right decision.

QUESTION:

You call your employee, Mary, into your office to announce that she will be receiving a promotion and raise in three weeks. Before you can share the good news, Mary tells you that she is pregnant and that she will be taking six weeks of maternity leave in two months. You are surprised and unsure of how to handle such a lengthy absence with short notice, so you decide to delay the promotion and raise until Mary's return, to make her absence period easier to manage for Mary and the entire department. Is this allowed under university policy and law? YES/NO?

ANSWER: No. University policy and the Pregnancy Discrimination Act forbids discrimination based on pregnancy when it comes to any aspect of employment, including promotions. Delaying a promotion and a raise is an adverse action to Mary's employment that is being done because of her pregnancy, therefore, this action is against the requirements of University policy and law and would be deemed discriminatory.

QUESTION:

Today you were reprimanded by your supervisor in a manner that you believe was unprofessional and unfair. During the rest of the workday, you tell all seven of your coworkers "I hate our boss. She's old and stupid and can't do her job anymore. I wish she'd just retire already." The next day, a colleague tells your boss who then reports your actions to Human Resources as harassment. Do your actions constitute harassment?

ANSWER: LIKELY NOT Harassment is conduct based upon an individual's protected class. The EEOC states, "petty slights, annoyances, and isolated incidents (unless

extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people” In this case, if your boss is age forty or above, they are in a protected class under the Age Discrimination in Employment Act. However, it is unlikely that your conduct will be judged to create an intimidating, hostile or offensive work environment and your post may be seen as a petty slight or isolate incidents.

HOWEVER... Although your actions may not be deemed harassment of your supervisor, you will still be subject to disciplinary action as outlined in University Policies and Procedures, PER 5.01, Disciplinary Action, such as: III.F. Discourteous treatment of other employees, students, or the public and IV.L. Personal conduct of any kind that is disruptive to the work environment or which is adverse to the interests of the University.

QUESTION:

A student worker reports to you that an employee of the University has repeatedly asked them about gender reassignment surgery after the student worker shared with the employee that they are Transgender and the employee has tried to engage them in many conversations about whether they have had gender reassignment surgery. The student has also reported that they told the employee to stop after the first time, but the comments have continued. You inform the employee’s supervisor immediately. Should you also contact the Human Resources Employee Relations team? YES/NO?

ANSWER: Yes. Although you have reported it to the employee’s supervisor, under Title IX laws as well as the policies and laws seen in this training, the Employee Relations Team needs to also be made aware as soon as possible in order to grant the student all of the rights they have in regards to this behavior.

QUESTION:

If you are interested in learning more about how to promote safety for everyone and communicate intolerance for domestic violence, stalking, dating violence, and sexual assault, you need to call Louisville’s local women’s shelter.

ANSWER: While you may absolutely contact a local women’s shelter to learn more, the resource you are looking for is also found here at the University. Contact the PEACC Center or the Employee Relations team to learn more about Green Dot Training, which is Bystander Intervention offered on campus.

Where can you ask questions or file a complaint?

Human Resources, Employee Relations

Laura Carter (852-6698)

Donna Ernst (852-6538)

Mary Elizabeth Miles (852-6688)

Or any Dean, Chair, or Department Head.

Human Rights 595-4024 1-800-292-5566 www.kchr.ky.gov

Federal Equal Employment Opportunity Commission 1-800-669-4000 www.eeoc.gov

Certification of Course Completion

Before you go! In order to certify completion of this training please click the "Discriminatory Harassment Certification" link below and complete the certification form:

[Discriminatory Harassment Certification](#)

(http://louisville.edu/hr/employeerelations/discriminatory_harassment_training)