

3.94 Sexual Harassment Gender Discrimination (See also Chapter 4, Appeals - Discrimination) [edited from AP&P 132-133]

It is the policy of New Mexico State University to provide an atmosphere free of sexual harassment for all faculty, staff, students, and visitors.

According to the U.S. Equal Employment Opportunity Commission and the U.S. Office for Civil Rights, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic progress; (2) students' educational pursuits are adversely impacted; (3) submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting such individual; (4) such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or creates an intimidating, hostile, or offensive working or learning environment. Harassing conduct based on gender often is sexual in nature, but sometimes is not. Any unwelcome conduct based on gender is also forbidden by this policy regardless of whether the individual engaged in harassment and the individual being harassed are of the same or different gender. Common forms of harassment include offensive or abusive physical contact, joking, lewd language, suggesting sexual favors, displaying sexually suggestive objects, pictures, magazines, calendars, etc.

Hostile Work/Academic Environment: A student or employee may file a claim based on sexually offensive conduct that is sufficiently severe and/or pervasive to create a hostile work or academic environment. A hostile work or academic environment based on unwelcome attention, leers, or remarks of a sexual nature may also be grounds for sexual harassment. The university extends this protection to students in the classroom or in any academic-related settings. Hostile environment harassment based on discrimination should be referred to the Institutional Equity/EEO Director. Non-discriminatory hostile environment issues are regarded management matters under the purview of the appropriate administrator.

Retaliation: Any university employee or student may report violations of this policy without fear of retribution. The university prohibits retaliation against individuals because they have in good faith: (1) opposed any discriminatory or employment practice covered by university policies/procedures or state/federal laws; (2) filed a complaint of discrimination or grievance with the Office of Institutional Equity/EEO or external state/federal agency with statutory jurisdiction over discrimination filings; (3) reported a discriminatory matter to a supervisor; or, (4) testified, assisted with, or participated in an investigation, proceeding, or hearing protected under same. Such retaliation in and of itself may result in disciplinary action, up to and including termination.

Grievances: Persons who feel they have been harassed should whenever possible first approach the person or persons engaging in the inappropriate conduct indicating that the conduct is unwelcome. If the unwelcome behavior persists, the aggrieved should either report the complaint to the appropriate supervisor or the Institutional Equity/EEO director. All sexual harassment complaints made to a person in a position of authority must be reported to the Institutional Equity/EEO director (or the Human Resources director if uncomfortable reporting the complaint to the Institutional Equity/EEO director) immediately, regardless of whether or not permission was given by the party subjected to the harassment. Allegations of sexual harassment are to be reported within 15 working days of occurrence, unless extenuating circumstances warrant exception. All employees and students should be aware that the university is prepared to take action in a timely manner to prevent and remedy such behavior, and that individuals who engage in such behavior are subject to disciplinary action. Any disciplinary action may be appealed through the appropriate procedure. To the extent possible, every effort will be made to safeguard confidentiality, consistent with reporting obligations and the need to investigate promptly and thoroughly. Contact the Institutional Equity/EEO director at (575) 646-3635 for any questions or clarifications to this policy statement.

Sanctions: Individuals who engage in sexual harassment, or supervisors who neglect to control the work environment and/or learning environment, will be held accountable. If it is determined that a violation of this policy has occurred, appropriate disciplinary action, training, and other measures will be taken to remedy the situation. All individuals are required to cooperate with any investigation in response to an allegation of harassment. Refusal to cooperate in an investigation may result in disciplinary action in accordance with university policy.