

# POLICY MANUAL

## GENERAL

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**Number 339**

**Subject: Sexual Harassment**

**Covered Individuals: USU Employees, Students and Visitors**

**Date of Origin: January 24, 1997**

**Date of Revision: May 6, 2016**

**Effective Date: May 6, 2016**

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### 339.1 POLICY

Utah State University is committed to providing an environment free from gender-based discrimination and harassment. Utah State University has an established policy to address sexual harassment in the workplace and academic setting.

Sexual harassment of any employee, student, or recipient of the services of this University is prohibited. Anyone who feels that he/she is the victim of sexual harassment or any supervisor or manager who is made aware of an alleged incident of sexual harassment must take immediate action to resolve the matter. Any individual may contact the University's Affirmative Action/Equal Opportunity (AA/EO) Office for available options and resources or clarification, leading to an informal resolution of the matter. Sexual misconduct complaints may not be resolved using informal methods of compromise or settlement. If an informal resolution is not accomplished or is not possible, further action, including the filing of a complaint and undertaking a formal inquiry/investigation, may be taken to facilitate a resolution pursuant to this policy.

### 339.2 REFERENCES

- Titles VI and VII of the Civil Rights of 1964
- Title IX of the Higher Education Amendments of 1972
- Campus Sexual Violence Elimination Act (SaVE) – reauthorization of Violence Against Women Act of 2013
- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and others as applicable.

### **339.3 DEFINITIONS**

3.1 Definitions of Sexual Harassment can be found at [<http://aaeo.usu.edu/files/uploads/Definitions.pdf>]

3.2 Preponderance of evidence: (<http://aaeo.usu.edu/files/uploads/Definitions.pdf>) – it is more likely than not that a policy violation occurred. This is the standard of evidence used in investigations of discrimination and harassment at Utah State University.

3.3 Administrator: The administrator at the dean/vice president or the department head/director level with direct line responsibility over the college, department, office, agency or other operational unit of the university in which the claimed discrimination or harassment occurred

### **339.4 PROVISIONS**

No member of the Utah State University community shall engage in sexual harassment. For the purposes of this policy sexual harassment is defined as unwelcome sexual advances, requests for sexual favors or other verbal, written 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 or status as a student in a course, program or activity;
- Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting an individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or of creating an intimidating, hostile or offensive environment for working or learning.

#### **4.1 Examples of Sexual Harassment**

Sexual harassment encompasses any sexual attention that is unwanted. Examples of the verbal, non-verbal and physical conduct prohibited by the section above include, but are not limited to:

- Unwelcome comments about a person's clothing or body;
- Coercion for a date or a romantic or intimate relationship;
- Unwelcome touching, kissing, hugging or massaging;
- A course of unwanted attention that is repeated or obsessive;
- Giving letters, personal gifts, and/or materials of a sexual nature;
- Use of unwanted force in connection with sexual activity or attempted sexual activity;
- Subtle pressure for sexual activity;
- Dating Violence;

- Domestic Violence;
- Stalking;
- Sexual Assault;
- Videotaping or photographing of activity of a sexual or private nature without the consent of the person(s) being videotaped or photographed;
- Use of e-mail, the Internet or other forms of digital media to facilitate any of the conduct listed above;

#### **4.2 Awareness and Prevention**

Utah State University is committed to the prevention of sexual harassment. Toward this goal, this policy is available to all faculty, staff and students. In addition, the AA/EO Office shall conduct on-going training in the prevention of sexual harassment for employees and will provide additional training, with specialized focus or to specific groups upon request. Incoming first year students are offered prevention and awareness training through student services.

#### **4.3 Filing a Complaint**

The University has established a complaint procedure to handle all types of discrimination complaints, including sexual harassment (refer to USU Policy 305). The University has designated the AA/EO Director/Title IX Coordinator as the official responsible for receiving and investigating complaints of sexual harassment.

#### **4.4 Investigation of Reported Incidents**

The AA/EO Office will investigate all reported incidents of sexual harassment. The University intends that the principles of Utah State University Policy 305 will govern all sexual harassment investigations. For faculty, the procedures described in USU Policy 407 will govern.

#### **4.5 Retaliation**

Retaliation against an individual who has made a complaint or has in any way participated in an inquiry/investigation is prohibited.

#### **4.6 Disciplinary Actions**

In cases where the preponderance of evidence indicates that a violation of this policy occurred, the appropriate Administrator will follow the disciplinary policy and procedures applicable to the individual in violation of this policy. The applicable policies and procedures are as follows:

- 1) For faculty, the Provost, applicable dean, vice president, department head and/or director will follow the procedures for imposing sanctions (refer to

USU Policy 407).

- 2) For employees, the applicable vice president and/or supervisor/manager will follow the procedures for corrective action (refer to USU Policy 311).
- 3) For students, the Vice President for Student Affairs and/or his/her designee will impose sanctions, if warranted by following the procedures set forth in the Student Code of Conduct.

#### **4.7 Consensual Relationships**

Amorous relationships between a faculty member and a student shall be governed by Utah State University Policy 407.1. Amorous relationships between a supervisor and an employee are discouraged due to the imbalance of power that exists. The party with lesser authority or power may fear reprisal or retaliation if he/she rejects the amorous or sexual requests. Should a complaint of sexual harassment be filed, the party with the greater authority may not be able to use perceived mutual consent as the sole defense if the relationship is considered "unwelcome" by the party filing the complaint.

### **339.5 REPORTING RESPONSIBILITY**

#### **5.1 Affirmative Action/Equal Opportunity Office**

The AA/EO Office is responsible for receiving and investigating all complaints of sexual harassment, providing reporting options and support services to employees and students, as well as protecting confidentiality to the extent possible.

#### **5.2 University Administrators**

If University Administrators become aware of situations within their area which violate this policy, they must contact the AA/EO Office immediately.

#### **5.3 Employees**

Employees must report to the AA/EO Director/Title IX Coordinator incidents of behaviors that may constitute sexual harassment according to the guidelines in this policy.

#### **5.4 Students**

Students are encouraged to report instances that may constitute sexual harassment according to the guidelines in this policy to the Title IX Coordinator, Confidential reporting resources, and/or law enforcement. Students may utilize any or all of the processes and/or services for reporting sexual harassment. For additional assistance, students should contact the AA/EO Office.

## **5.5 Visitors**

Visitors are encouraged to report instances that may constitute sexual harassment according to the guidelines in this policy to the Affirmative Action/Equal Opportunity Director who also serves as the Title IX Coordinator. Visitors may utilize processes for reporting sexual harassment. For additional assistance or information, visitors should contact the AA/EO Office.