

MISSOURI SOUTHERN STATE UNIVERSITY POLICY

Policy #:		Effective:	July 2017*	Category:	All University Employee Policies
Name:	NON-DISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY POLICY & SEXUAL MISCONDUCT/VIOLENCE/ASSUALT TITLE IX POLICY				

1.0 PURPOSE

The purpose of the policy is to provide guidance to University employees regarding the policy below in order to comply with the standards set forth by the University. This policy is necessary in order to maintain an effective and compliant workforce that meets the University mission.

2.0 SCOPE

University Employee Policy

3.0 POLICY

Missouri Southern State University emphasizes the dignity and equality common to all persons and adheres to a strict nondiscrimination policy regarding the treatment of individual faculty, staff, students, third parties on campus, and applicants for employment and admissions. In accord with federal law and applicable Missouri statutes, the University does not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, pregnancy, ancestry, age, disability, genetic information, veteran status, or any other legally-protected class, in employment or in any program or activity offered or sponsored by the University, including, but not limited to, athletics, instruction, grading, the awarding of student financial aid, recruitment, admissions, and housing.

Persons having inquiries concerning the University's compliance with this policy or any laws and regulations prohibiting discrimination are directed to contact the following:

An employee with questions or concerns about any type of discrimination in the workplace, including discriminatory harassment, is encouraged to bring these issues to the attention of Director of Human Resources, who may be contacted at: (417)-625-9805.

Questions or concerns regarding the University's compliance with Title IX may be directed to the University's Title IX Coordinator or Deputy Title IX Coordinator. The University has designated the following Title IX Coordinator and Deputy Title IX Coordinator as named in the University's Title IX Policies and Procedures.

Julie Wengert
Dean of Student Success & Title IX Coordinator
Billingsly Student Center 347
Tel: (417)-625-9532
Email: wengert-j@mssu.edu

Evan Jewsbury
Director of Human Resources (Deputy Coordinator)
Hearnes Hall Room 217B

Tel: 417-625-9805
Email: jewsbury-e@mssu.edu

For ADA/Section 504 related questions or concerns, please contact:

Lori Musser
Coordinator of Disability Services
Hearnes Hall 301L
Tel: (417)-625-9516
Email: musser-r@mssu.edu

For all other inquiries related to discrimination at the University, please contact:

Evan Jewsbury
Director of Human Resources
Hearnes Hall Room 217B
Tel: 417-625-9805
Email: jewsbury-e@mssu.edu

Judy Wilmoth
HR & Workforce Development Manager
Hearnes Hall Room 217B
Tel: 417-625-3167
Email: wilmoth-j@mssu.edu

No individual will be subject to any form of organizational retaliation, discipline, or other adverse action for reporting conduct in violation of the University's nondiscrimination/EEO policy, assisting/cooperating in making a complaint, or assisting with the investigation of a complaint. Any individual who believes they have experienced or witnessed retaliation should immediately notify the appropriate member(s) of the administration as identified above. Those found to be engaging in any type of discrimination in violation of the law or University policy will be subject to disciplinary action, up to and including dismissal or termination of employment.

Employees who feel that they have a grievance pertaining to any form of discrimination should follow the policy and procedures outlined in the following sections.

SEXUAL MISCONDUCT

Sexual misconduct will not be tolerated at MSSU. Anyone who witnesses what appears to be a violation of the law concerning sexual misconduct is obligated to do two things. First, intervene immediately to protect a person who is being victimized. Second, report the violation to the campus police department.

In the case of an employee or student visiting child pornography sites, the witness is instructed to report it to the campus police department immediately. Misconduct constituting retaliation or harassment as defined in this MSSU policy will be dealt with appropriately. The University will determine the disciplinary action to be taken under the circumstances.

SEXUAL VIOLENCE/ASSUALT POLICY

Missouri Southern State University strictly prohibits Sexual Violence/Assault as set forth in the University's Nondiscrimination and Anti-Harassment Policy. Sexual Violence/Assault may also constitute a criminal act that subjects the perpetrator to prosecution under applicable law.

Sexual Violence/Assault is inconsistent with the standards of our University. It can be devastating to the person who experiences it directly and can be traumatic to the person's family, friends, and larger community as well. Anyone who believes she or he has been the victim of Sexual Violence/Assault is strongly encouraged to report the incident and seek care as set forth below.

The University's Sexual Violence/Assault Policy applies to all faculty, staff, students, applicants for employment, customers, third-party contractors, guests, and visitors (collectively the "University Community"). The policy is not limited to those acts of Sexual Violence/Assault that occur on University property. Rather, the policy applies to all acts of Sexual Violence/Assault that have the potential to deny or limit a person's ability to participate in or benefit from the University's programs and activities, regardless of where the Sexual Violence/Assault occurs. This policy prohibits Sexual Violence/Assault between persons of the same sex, as well as between persons of the opposite sex.

It is a violation of this policy to retaliate against any member of the University Community who reports or assists in making a complaint of Sexual Violence/Assault or who participates in the investigation of a complaint in any way.

Consistent with the procedures set forth in the University's Nondiscrimination and Anti-Harassment Policy, and this policy, the University will thoroughly and promptly investigate all complaints of Sexual Violence/Assault. If an investigation confirms that Sexual Violence/Assault has occurred, the University will take prompt and appropriate remedial action to address the Sexual Violence/Assault, eliminate any hostile environment, prevent its recurrence, and correct its effects on the victim and others, if applicable.

The University provides education and Sexual Violence/Assault prevention programs for all members of the University Community, including numerous support services and referrals for any member of the University Community who has been the victim of Sexual Violence/Assault. Additional information on Sexual Violence/Assault can be found in an easy-to-access brochure entitled "[What To Do About Sexual Violence](#)".

DEFINITION OF SEXUAL VIOLENCE/ASSUALT

Sexual Violence/Assault includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to a physical or mental disability, due to the use of drugs and/or alcohol, or due to the victim's youth (i.e., they are below the legal age of consent).

Some examples of Sexual Violence/Assault include:

- Sexual intercourse (anal, oral, or vaginal) by a man or woman upon a man or woman without consent
- Unwilling sexual penetration (anal, vaginal, or oral) with any object or body part that is committed by force, threat, or intimidation
- Sexual touching with an object or body part, by a man or woman upon a man or woman, without consent

- Sexual touching with an object or body part, by a man or woman upon a man or woman, committed by force, threat, or intimidation
- Prostituting another person
- Non-consensual observation (peeping), non-consensual video recording, and non-consensual audio-recording of sexual activity
- Knowingly transmitting a sexually transmitted disease to another
- Exposing oneself in a sexual manner to others without their consent
- Aiding and abetting another person in committing Sexual Violence/Assault
- Retaliating against any person who makes a report of Sexual Violence/Assault or who participates in the investigation of the report (such as a witness).

Sexual conduct prohibited by the Missouri Revised Statutes, Chapters 566-568, is included within the University's definition of Sexual Violence/Assault.

The crimes of Domestic Assault, Dating Violence and Stalking can also constitute Sexual Violence/Assault. These crimes, no matter the motivation behind them, are a violation of this policy.

Domestic Assault:

Domestic Assault is defined in Mo. Rev. Stat. §§ 565.072-565.074. It generally involves violence or attempted violence perpetrated against a family or household member, including children. "Family or household member" is defined as "spouses, former spouses, any person related by blood or marriage, persons who are presently residing together or have resided together in the past, any person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim and anyone who has a child in common regardless of whether they have been married or have resided together at any time. *See* Mo. Rev. Stat. § 455.010.

Dating Violence:

Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Such a relationship is characterized by the expectation of affection or sexual involvement between the parties. The existence of such a relationship shall be determined based on a consideration of the (1) length of the relationship, (2) type of relationship, and (3) frequency of the interaction between the persons involved in the relationship.

Stalking:

A person commits the crime of stalking if he or she purposely, through his or her course of conduct, harasses or follows with the intent of harassing another person. "Course of conduct" is a pattern of conduct composed of two or more acts, which may include communication by any means, over a period of time, however short, evidencing a continuity of purpose. It does not include constitutionally protected activity. *See* Mo. Rev. Stat. § 565.225. For purposes of this policy, stalking includes "cyberstalking," which constitutes stalking committed through electronic means, such as through the use of email, text messages, live chat, social media, and other electronic forms of communication.

DEFINITION OF CONSENT

Lack of consent is often the critical factor in determining whether Sexual Violence/Assault has occurred. Consent is informed, freely given, and mutually understood. Consent requires an affirmative act or statement by each participant. Consent is not passive. The University does not recognize consent by silence.

If coercion, intimidation, threats, and/or physical force are used, there is no consent.

If a person's physical or mental disability renders them incapable of understanding the fact, nature, or extent of the sexual situation, there is no consent.

If a person is impaired by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent.

If a person is asleep or unconscious, there is no consent.

Consent to one form of sexual activity does not imply consent to other forms of sexual activity.

Consent can be withdrawn. A person who initially consents to sexual activity is deemed not to have consented to any sexual activity that occurs after he or she withdraws consent.

Consent may be deemed invalid when it is obtained in circumstances where one party exercised a position of direct authority or control over another.

A victim is not required to affirmatively/physically resist or say "stop" in order for there to be Sexual Violence/Assault.

REPORTING

Although there is no statute of limitations for alleged victims of Sexual Violence/Assault to make reports, the University urges alleged victims to make reports promptly. Delayed reporting may limit the University's ability to thoroughly investigate the report and could result in stale evidence.

Reporting for Others:

All University employees (administrators, faculty, and staff) have a duty to file a report when they believe, or receive information indicating, that a member of the University Community has been subjected to Sexual Violence/Assault. If the alleged perpetrator or victim is a student, the employee should report to the Title IX Coordinator/Dean of Students—Billingsly 347, Tel: 417-625-9351. In all other cases, the employee should report to the Deputy Coordinator/Director of Human Resources, Hearnes Hall 217, Tel.: 417-625-9805. Such a report must be made promptly. The only employees exempted from this mandatory reporting obligation are licensed counselors, licensed medical professionals, and their administrative/support staff responsible for scheduling appointments ("Confidential Reporters").

Reporting for Yourself:

Students and other members of the University Community who believe they or another member of the University Community has been subjected to Sexual Violence/Assault are encouraged to make a report to either the Title IX Coordinator/Dean of Students (Billingsly 347, Tel: 417-625-9351) or the Deputy Coordinator/Director of Human Resources (Hearnes Hall 217, Tel.: 417-625-9805).

If you believe you are the victim of Sexual Violence/Assault, do not blame yourself. Sexual Violence/Assault is never the victim's fault. In addition to making a report under this policy, the University urges alleged victims of Sexual Violence/Assault to immediately go to the emergency room of a local hospital and contact University police or local law enforcement. If a person needs help or

assistance in going to an emergency room or contacting law enforcement, the University will provide assistance.

It is important for alleged victims of Sexual Violence/Assault to do everything possible to preserve evidence by making certain that the scene of the Sexual Violence/Assault is not disturbed. Preservation of evidence may be necessary for proof of the Sexual Violence/Assault or in obtaining a protection order. Victims of Sexual Violence/Assault should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a medical examination is completed. Clothes should not be changed.

INVESTIGATION

Once a report of Sexual Violence/Assault is made, the University will conduct a prompt and thorough investigation pursuant to the procedures set forth in the Nondiscrimination and Anti-Harassment Policy. The purpose of the investigation is to determine whether it is more likely than not that the alleged Sexual Violence/Assault occurred. The investigation will be resolved through a written determination that explains the scope of the investigation, identifies findings of fact, and states whether any allegations were found to be substantiated by a preponderance of the evidence.

If the respondent (i.e., the alleged perpetrator) is a student, the Dean of Students will explain the investigation process to the individuals involved. In all other cases, the Title IX Coordinator/Director of Human Resources will explain the investigation process to the individuals involved.

At any time during the investigation, the investigator, in consultation with the Title IX Coordinator/Director of Human Resources and appropriate administrators, may determine that interim remedies or protections for the parties involved or witnesses are appropriate. These interim remedies may include separating the parties, placing limitations on contact between the parties, suspension, or making alternative class-placement or workplace arrangements.

Failure to comply with the terms of these interim remedies or protections constitutes a separate violation of this policy.

For more information on the investigation and resolution process, please consult the Nondiscrimination and Anti-Harassment Policy.

DISCIPLINE

In the event the investigation concludes that Sexual Violence/Assault occurred, disciplinary proceedings will be undertaken against any respondent over whom the University has jurisdiction. The appropriate University disciplinary avenue is determined by the status of the respondent (e.g., the Code of Student Conduct applies with respect to discipline against students). Any person who commits Sexual Violence/Assault is subject to the full range of discipline up to and including termination or expulsion.

CONFIDENTIALITY

During the investigation, the University will make reasonable and appropriate efforts to preserve an individual's privacy and limit disclosure of information within the parameters imposed by law. All

participants in the investigation and any disciplinary proceedings are prohibited from sharing information about the investigation, disciplinary proceedings, and their outcome, except as otherwise permitted by law. The failure of participants to abide by this principle may result in discipline, as well as potential civil liability.

Depending on the nature of the report, the University may issue a safety awareness alert (a brief description including time and location) to notify the community about the occurrence of a serious crime or pattern of crimes that might put the public at risk. The University is also required by law to tabulate and annually report certain sex crimes and other campus crime statistics to the public. These statistics and the list of people to whom a crime may be reported for it to be included in the statistics appear on the University website <http://www.mssu.edu/offices/police/pdfs/annual-report-2012.pdf>. Neither safety awareness alerts nor campus crime statistics contain specific, victim-identifying information.

In the event a complainant (i.e., the alleged victim) requests confidentiality after a non-confidential report is made, or requests that an investigation not proceed, the University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that her or his name not be disclosed to the alleged perpetrator, the University's ability to respond may be limited. Because Sexual Violence/Assault is a serious crime that may threaten the University Community as a whole, in some instances the University may be obliged to investigate an alleged act of Sexual Violence/Assault and utilize internal disciplinary procedures without the cooperation of the complainant. Always in such instances, the University will inform the complainant of its obligation to address a community safety issue.

If a complainant of Sexual Violence/Assault wishes to have a strictly confidential conversation about the incident, he or she should contact a Confidential Reporter, who will maintain confidentiality and not forward the report for investigation without the reporting party's consent, unless otherwise required by law (such as when the victim is a minor).

Contact information for the Confidential Reporters is as follows:

For counseling, request a confidential counseling appointment with a licensed counselor from:

Counseling Services
Hearnes Hall 314
Tel: 417-625-9324

For a meeting with a medical professional, request an appointment from:

Willcoxon Health Center
Billingsly Room 242
Tel: 417-625-9323

THE RIGHTS OF THE ALLEGED VITCIMS

Sexual Violence/Assault is a very serious matter that is never the victim's fault. The University encourages the reporting of alleged Sexual Violence/Assault and wishes to create a safe environment for its University Community. To that end, alleged victims of Sexual Violence/Assault have:

- The right to have all allegations of Sexual Violence/Assault against them investigated and adjudicated consistent with the procedures set forth in this policy and the Nondiscrimination and Anti-Harassment Policy.
- The right to be treated with dignity.
- The right to be free from pressure that would suggest the alleged victim:
 - Not report crimes committed against them to civil and criminal authorities, or to campus police and disciplinary officials.
 - Report crimes as lesser offenses than the alleged victim perceives them to be.
- The right to be free from suggestions that alleged victims of Sexual Violence/Assault not report, or under-report the offense because:
 - Victims are somehow “responsible” for it
 - Victims are contributory, negligent, or assumed the risk of being subjected to Sexual Violence/Assault
 - By reporting an offense, they will incur unwanted attention and Publicity
- The right to fair and thorough action by University personnel in responding to the incident.
- The right to access counseling services established by the University or other victim-service entities.
- The right to receive reasonable and necessary interim measures to prevent unwanted contact and prevent further injury during the pendency of an investigation.
- The right to be informed of any disciplinary proceedings and the outcome of such proceedings.
- The same right to assistance, or ability to have others present, that is afforded to the alleged perpetrator during any disciplinary proceedings.

UNIVERSITY SUPPORT SERVICES AND RESOURCES

The needs of persons who have been victims of Sexual Violence/Assault vary from person to person and may vary over time. The University’s Counseling Department and Wilcoxon Health Center offer counseling and medical services, many of which can be accessed 24 hours a day, so that a person may choose what she or he would find most helpful and healing. The Dean of Students Office may be able to assist student victims with other reasonable accommodations. The University urges anyone who has been the victim of Sexual Violence/Assault to seek support as soon as possible to minimize and treat physical harm, and to assist with processing the unique and complex emotional aftermath.

IMPORTANT CONTACT INFORMATION

University Reporting Options:

Title IX Coordinator/Dean of Students – Billingsly 347,

Tel: 417. 625.9531

Deputy Coordinator/Director of Human Resources – Hearnes Hall 217, Tel: 417.625.9805

Law Enforcement:

EMERGENCY: DIAL 911

University Police – Lower campus area between Ummel and Plaster Halls, Tel: 417-626-2222

Jasper County Sheriff’s Office – Tel: 417-624-1601

Joplin Police Department – Tel: 417-623-3131

Newton County Sheriff’s Office – Tel: 417-623-2282 or

417-541-8300
Neosho Police Department – Tel: 417-451-8000

University Support Services:

Wilcoxon University Health Center – Billingsly Student Center 242, Tel: 417-625- 9513 (Hours 8:00-5:00 M-F)

Counseling Department – Hearnese Hall 314, Tel.: 417-625-9324 (Hours 8:00-5:00 M-F)

-

Third Party Support Services:

Lafayette House (Battered Women) – Tel: 417-782-1772

Ozark Center Crisis Services – Tel: 417-347-7720 or 800-247-0661

National Sexual Assault Hotline – Tel: 800-656-4673

THE UNIVERSITY’S SEX DISCRIMINATION AND SEXUAL HARASSMENT POLICY AND OTHER DISCIPLINE POLICIES

The University’s Sexual Violence/Assault Policy supplements the University’s Nondiscrimination and Anti-Harassment Policy and other University policies pertaining to discipline. The provisions of these other policies apply with respect to Sexual Violence/Assault except to the extent they are inconsistent with the Sexual Violence/Assault Policy.

GRIEVANCE RESOLUTION POLICY FOR DISCRIMINATION AND HARASSMENT ISSUES

The Complaint Resolution Procedure is utilized by the University in addressing various forms of discrimination and harassment complaints. Examples of actions which may be causes of these types of complaints include, but are not limited to: alleged discrimination because of race, color, gender, age, religion, disability, or any other non-work related factor; treatment considered unfair by an employee, such as harassment or intimidation; sexual misconduct or sexual harassment. Employees who believe they have a legitimate complaint as described above may undertake the formal Complaint Resolution Procedure as outlined in this Handbook.

4.0 HISTORY

This policy may be revised, edited, changed or removed at any time with or without notice to applicable individuals.

5.0 RELATED DOCUMENTS