

LOUISIANA STATE LAW INSTITUTE POLICY ON THE PREVENTION OF SEXUAL HARASSMENT

I. POLICY STATEMENT

The Louisiana State Law Institute (“Law Institute”) is committed to creating and maintaining a work environment in which all employees are free from sexual harassment. Sexual harassment may include a range of behaviors and may involve individuals of the same or different gender. Sexual harassment of any employee by another employee, member, or other person with whom an employee may have contact as part of his or her work environment is prohibited and will not be tolerated. Sexual harassment does not require the intent to offend. All employees should know of their responsibilities and protection under this policy.

II. PROHIBITED CONDUCT

A. Applicable law. Sexual harassment is strictly prohibited under the Equal Employment Opportunity Commission, Section 703 of Title VII of the Civil Rights Act of 1964 as amended; under Louisiana Employment Discrimination Law, R.S. 23:301-303 and 332; and under R.S. 42:341-345. Nothing in this policy shall preclude an employee from pursuing a claim under applicable state or federal law.

B. Definition. Sexual harassment is defined by the Equal Employment Opportunity Commission as:

“Unwelcome sexual advances, requests for sexual favors, and other verbal, physical or inappropriate conduct of a sexual nature if: (1) submission to such conduct is an explicit or implicit term or condition of an individual's employment; (2) submission to or rejection of such conduct is a basis for employment decisions affecting such individual; or (3) the conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment.”

C. Types of sexual harassment. There are two types of sexual harassment:

- “Quid pro quo” harassment, where submission to harassment is used as the basis for employment decisions. Employee benefits such as raises, promotions, and better working hours are directly linked to compliance with sexual advances. Therefore, only someone in a supervisory capacity with the authority to grant such benefits can engage in quid pro quo harassment. Examples: A supervisor promising an employee a raise if she goes on a date with him; a manager telling an employee she will fire him if he does not have sex with her.

- “Hostile work environment” harassment, where the harassment creates an offensive and unpleasant working environment. A hostile work environment can be created by anyone in the work environment, whether it be supervisors, other employees, or third persons. Hostile work environment harassment consists of verbiage of a sexual nature, unwelcome sexual materials, or even unwelcome physical contact as a regular part of the work environment. Texts, emails, cartoons or posters of a sexual nature, vulgar or lewd comments or jokes, or unwanted touching or fondling all fall into this category.

D. Examples of prohibited behavior. Sexual harassment occurs when unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature:

- Is made explicitly or implicitly a term or condition of employment.
- Is used as a basis for an employment decision.
- Unreasonably interferes with an employee’s work performance or creates an intimidating, hostile, or otherwise offensive environment.

Sexual harassment may take different forms. The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal sexual harassment includes innuendoes; suggestive comments; jokes of a sexual nature; sexual propositions; lewd remarks and threats; requests for any type of sexual favor, including repeated, unwelcome requests for dates; and verbal abuse or “kidding” that is oriented toward a prohibited form of harassment, including that which is sexual in nature and unwelcome.
- Nonverbal sexual harassment includes the distribution, display, or discussion of any written or graphic material, including calendars, posters, and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters and notes, facsimiles, emails, photos, text messages, tweets, and internet postings; or other form of communication that is sexual in nature and offensive.
- Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing and fondling, and forced sexual intercourse or assault.

Actions that are inappropriate and may meet the definition of sexual harassment or contribute to a hostile work environment include but are not limited to the following:

- Sexual pranks, or repeated sexual teasing, jokes, gestures, or innuendo.
- Lewd comments about an individual’s body.
- Touching or grabbing of a sexual nature.

- Talking about one's sexual activity in front of others.
- Inappropriate, unwelcome conduct of a sexual nature such as: cornering, repeatedly standing too close to or brushing up against another's body, or leaning into or over a person.
- Giving gifts or leaving objects that are sexually suggestive.
- Posting, making, or displaying pornographic, sexually demeaning, or sexually explicit material in the workplace.
- Pressure for unnecessary personal interaction.
- Off-duty, unwelcome conduct of a sexual nature that affects the work environment.
- Making sexual statements in person, in writing, or electronically, such as via email, instant messaging, text messaging, blogs, web pages, social media, etc.

Retaliation or attempted retaliation in response to lodging a complaint or invoking the complaint process is a violation of this policy.

III. COMPLAINTS

- A. Complaint procedure. An employee who believes that he or she has been sexually harassed or been the victim of sexual harassment, discrimination, or retaliation, or who has witnessed sexual harassment, discrimination, or retaliation, should immediately report the incident to their supervisor, preferably in writing, who shall forward the complaint to the Director. The President shall be notified that a sexual harassment complaint has been made and that an investigation will be conducted pursuant to the provisions of this policy. Such notification need not include the identities of the complaining person and the person against whom the complaint was made.
- B. Investigation of complaints. Upon receipt of a complaint of sexual harassment, the supervisor shall immediately initiate an investigation. The investigation may include interviewing appropriate persons, examining relevant records, and consulting with and utilizing appropriate staff. The complaining person, the person against whom the complaint was made, and all other employees and members shall participate in and cooperate with the investigation of the complaint, and all findings made during the investigation shall be documented.

Absent extenuating circumstances, the investigation shall be completed within fifteen (15) working days of receipt of the complaint. Upon completion of the investigation, a written report of the findings made during the investigation shall be provided to the Director and the President.

- C. Resolution of complaints. Upon receipt of the written report, the Director and the President shall determine the appropriate action to be taken based upon the circumstances. In making such determination, the Director and the President may obtain additional information and may also seek the guidance of the Law Institute's Executive Committee. The appropriate action will depend on the following factors: (i) the severity, frequency, and pervasiveness of the conduct; (ii) prior complaints made

by the complaining person; (iii) prior complaints made against the charged party; and (iv) the quality of the evidence (e.g., first-hand knowledge, credible corroboration). Once the determination is made, the complaining person and the person against whom the complaint was made shall be notified in writing of the decision and of any action being taken. Absent extenuating circumstances, final disposition of the complaint shall occur within thirty (30) working days of receipt of the complaint.

If the results of the investigation indicate that an employee engaged in behavior that constitutes sexual harassment, discrimination, or retaliation in violation of this policy, the employee shall be subject to disciplinary action, which may include dismissal.

If the results of the investigation indicate that a member engaged in behavior that constitutes sexual harassment, discrimination, or retaliation in violation of this policy, the Director and the President shall take appropriate steps to ensure that the complaining person's work environment is free from sexual harassment, discrimination, and retaliation in the future.

- D. Alternative recipients of complaints. If the sexual harassment, discrimination, or retaliation complaint involves the supervisor, the employee should report the incident directly to the Director. If the sexual harassment, discrimination, or retaliation complaint involves the Director, the employee should report the incident to the supervisor, who shall forward the complaint to the President. In either case, the person against whom the complaint was made shall not be involved in conducting the investigation or in determining the appropriate action to be taken.
- E. Notification of outcome. Within five (5) days after the investigation is concluded, the President or Director will meet separately with the complaining person and the person against whom the complaint was made, notify them of the findings of the investigation, and inform them of the action being recommended.
- F. Confidentiality. During the complaint process, the confidentiality of the information received, the privacy of the individuals involved, and the wishes of the complaining person will be protected to as great a degree as is possible. The expressed wishes of the complaining person for confidentiality will be considered in the context of the Law Institute's legal obligation to act on the complaint and the right of the person against whom the complaint was made to obtain information. In most cases, however, confidentiality will be strictly maintained by the Law Institute and those involved in the investigation. In addition, any notes or documents written or received by the person or persons conducting the investigation will be kept confidential to the extent possible and according to any existing state or federal law. Nothing in this policy prevents employees of the Law Institute from discussing working conditions or taking concerted action in furtherance of the rights protected by Section 7 of the National Labor Relations Act.
- G. Alternative legal remedies. Nothing in this policy prevents the complaining person or the person against whom the complaint was made from pursuing formal, available legal

remedies or resolution through local, state, or federal agencies or the courts, regardless of the outcome of the investigation. Nothing prevents the Law Institute from raising the procedures described herein as a defense to such claims.

IV. FALSE STATEMENTS

Making an intentionally false complaint of sexual harassment is prohibited.

If the results of an investigation indicate that the complainant made an intentionally false complaint of sexual harassment, the complainant shall be subject to disciplinary action, which may include dismissal.

V. RETALIATION

A. Prohibition. Employees shall be able to report sexual harassment without fear of retaliation. There shall be no retaliation against any employee who, acting in good faith, files a complaint, cooperates with an investigation of a complaint, or seeks guidance on compliance concerns or questions.

B. Definition. Retaliation is defined as any action, statement, or behavior that is designed to punish an employee for filing a complaint, cooperating with an investigation of a complaint, or seeking guidance regarding a compliance concern, or to deter an employee from taking such action.

C. Procedures. Acts of retaliation shall be immediately reported to the supervisor, who shall forward the complaint to the Director. If the complaint involves the supervisor or the Director, the employee should report the complaint to the President. In all other cases, complaints may be forwarded to the President as appropriate. Complaints of retaliation shall be investigated and resolved in accordance with Section III of this policy.

VI. POSSIBLE DISCIPLINARY ACTIONS

The possible disciplinary actions that may be taken by the Law Institute after the conclusion of the investigation for violation of this policy include mandatory counseling, suspension without pay, demotion, termination, and termination without eligibility for rehire. Such discipline may be imposed against a complaining person if it is determined that a claim of sexual harassment was intentionally false.

VII. MANDATORY TRAINING

Employees shall complete a minimum of one hour of education and training on preventing sexual harassment during each calendar year of their employment. Employees shall submit a copy of their certificate of completion of the mandatory education and training to the administrator, who will be responsible for maintaining such records.

All supervisors and any other individuals designated to accept or investigate a complaint of sexual harassment for the Law Institute shall receive additional education and training each calendar year.

Failure to complete the mandatory education and training requirements set forth by this policy may result in disciplinary action.

VIII. MANDATORY REPORTING

At the beginning of each year, the Director will oversee the compilation and submission of an annual report containing information from the previous calendar year concerning the Law Institute's compliance with the provisions of R.S. 42:341-345. This report shall be submitted to the Legislative Budgetary Control Council by February fifteenth of each year and shall include all of the following:

1. The number and percentage of Law Institute employees who have completed the training requirements.
2. The number of sexual harassment complaints received by the Law Institute.
3. The number of complaints that resulted in a finding that sexual harassment occurred.
4. The number of complaints in which the finding of sexual harassment resulted in discipline or corrective action.
5. The amount of time it took to resolve each complaint.

IX. REPAYMENT BY PERSON AGAINST WHOM THE COMPLAINT WAS MADE

The person against whom the complaint was made may be required to indemnify and reimburse the state of Louisiana when a claim filed results in a judgment or settlement against the state.

X. MISCELLANEOUS

A copy of this policy shall be provided to all employees and to all Reporters of Law Institute Committees. Employees and Reporters shall submit their signed acknowledgment forms to the administrator, who will be responsible for maintaining such records.

In addition, a copy of this policy shall be posted on the Law Institute's website and made available for review by all members of the Law Institute.

Any questions concerning this policy should be directed to the supervisor or, in the event that the questions cannot be satisfactorily answered, to the Director.

**POLICY ON THE PREVENTION OF SEXUAL HARASSMENT
EMPLOYEE ACKNOWLEDGEMENT**

My signature below acknowledges that:

1. I have received a copy of the Louisiana State Law Institute's *Policy on the Prevention of Sexual Harassment*.
2. I have read this policy or have had someone read this policy to me.
3. I understand the content of this policy.
4. I agree to comply with the terms and conditions of this policy.

I further acknowledge that compliance with this policy is a condition of my employment and continued employment.

Employee's Signature

Date

Employee's Printed Name

**POLICY ON THE PREVENTION OF SEXUAL HARASSMENT
REPORTER ACKNOWLEDGEMENT**

My signature below acknowledges that:

1. I have received a copy of the Louisiana State Law Institute's *Policy on the Prevention of Sexual Harassment*.
2. I have read this policy or have had someone read this policy to me.
3. I understand the content of this policy.
4. I agree to comply with the terms and conditions of this policy.

I further acknowledge that compliance with this policy is a condition of my position as a Reporter for the Law Institute.

Reporter's Signature

Date

Reporter's Printed Name