

Sexual Harassment Policy and Procedures

Lee College is committed to maintaining an academic environment in which its members can freely work together, both in and out of the classroom, to further education. Every member of the College community must recognize that sexual harassment compromises the integrity of the College, its tradition of academic freedom, and the trust placed in its members. Therefore, college's policy is to take all necessary actions to prevent, correct, and, where indicated, discipline perpetrators of sexual harassment. Disciplinary actions for sexual harassment committee by employees include, but are not limited to, written warning, demotion, transfer, suspension, or employment termination. Disciplinary actions for sexual harassment committed by students include but are not limited to, written warning, removal from class, or expulsion from the College.

Legal Authority

Sexual harassment is a form of sex discrimination, which is prohibited by Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, Title 42 of the U.S. Code, Section 1983, Executive Order 11246 as amended by the Title IX of the Education Amendments of 1972, and by the Rights Commission on Human Rights Act.

Sexual harassment by a public servant is a criminal offense under Section 39.03 of the Texas Penal Code. Sexual harassment may also be indecent exposure, public lewdness, assault, or sexual assault under Chapters 21 and 22 of the Texas Penal Code.

Definition

Sexual harassment may involve the behavior of a person of either sex against a person of the opposite or same sex, and occurs when such behavior constitutes unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature where:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment and/or academic advancement;
2. Submission to or rejection of such conduct by a person is used as the basis for decisions affecting a person's employment and/or academic standing;
3. Such conduct has the purpose or effect of unreasonably interfering with a person's work and/or academic performance or creating an intimidating, hostile, or offensive work, learning, or social environment.

Sexual harassment may also include behavior that is non-sexually explicit if such behavior is targeted to one gender.

Examples of Prohibited Behavior

Prohibited acts that constitute sexual harassment may take a variety of forms. Sometimes sexual harassment involves a single serious incident whereas at other times, multiple incidents are required to meet the standards of the definition of sexual harassment. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

1. Threats or insinuations that a person's employment, wages, academic grade, promotional opportunities, classroom or work assignments or other conditions of employment and/or academic life may be adversely affected by not submitting to sexual advances.
2. Unwelcome verbal expression, sexual innuendoes and comments, including comments on a person's body, dress, appearance or sexual activities; humor or jokes about sex or females/males in general; pestering a person for dates, whether in person or indirectly by mail, telephone, or other telecommunication devices on or off campus.
3. Unwelcome sexually suggestive sounds or gestures, including but not limited to, throwing kisses or whistling.
4. Sexually suggestive objects, pictures, videotapes, electronic mail, audio recordings or literature unrelated to educational purposes, placed in the work or study area that may embarrass or offend individuals.
5. Unwelcome or inappropriate touching, patting, or pinching including giving unrequested neck or shoulder massages.
6. Intimidating or demeaning remarks or behavior, which may not be sexually motivated, but are clearly based on stereotypes of gender.
7. Consensual sexual relationships where such relationships lead to favoritism of a student or subordinate employee with whom the teacher or superior is sexually involved and where such favoritism adversely affects other students and/or employees.

Application and Responsibility

This policy applies to all members of the College community whether the incident(s) of sexual harassment under consideration take place on campus, at a College-related activity, or off-campus if it is in combination with on-campus action or a college-related activity or function when that conduct interferes with a person's work or academic environment.

Individuals who are aware of or have experienced an incident of sexual harassment covered by this policy should promptly report the matter to a Sexual Harassment Coordinator or other College employee. Any written record and other evidence that the complainant has may be helpful during the investigation of a complaint. Anyone may seek advice, information or counseling on matters related to sexual harassment without having to lodge a formal complaint. Persons who feel they are being harassed, or are uncertain as to whether what they are experiencing is sexual harassment, are encouraged to talk with whomever they feel comfortable; for example, deans, division chairs, directors, counselors, personnel officer, and Sexual Harassment Coordinators.

The College has a legal responsibility to investigate any complaints to its satisfaction. Those who report incidents that College officials determine constitute sexual harassment under this policy should understand that their allegations may be investigated on behalf of all College students and employees whether or not they personally choose to pursue the complaint.

No Retaliation

No person may be subject to restraint, interference, coercion, or reprisal for action taken in good faith who seeks advice concerning a sexual harassment matter, files a sexual harassment complaint, or serves as a witness or panel member in the investigation of a sexual harassment complaint. Disciplinary action may be taken against any person retaliating in violation of this policy, and such intimidation or interference should be reported immediately to a Sexual Harassment Coordinator.

Malicious, False Accusations

A complainant whose allegations are found to be both false and brought with malicious intent will be subject to disciplinary action which, for employees, may include, but is not limited to, written warning, demotion, transfer, suspension, or termination from the College. Disciplinary actions for students making malicious false accusations include, but are not limited to, written warning, removal from class, or expulsion from the College.

Consensual Relations within the College Community

Because the College is entrusted with guiding students, judging their work, giving grades for courses and making recommendations for students, instructors and other College employees are in a delicate relationship of trust and power. This relationship must not be jeopardized by possible doubts of intent, fairness of professional judgment, or the appearance to other students of favoritism.

It is unwise and inappropriate, therefore, for the College employees who have romantic relations with students to teach or tutor such students, supervise them as student employees, or recommend them for awards or employment. It is equally unwise and inappropriate for employees to form such relationships with students in their classes or under supervision. Prudence and the best interest of the students dictate that in such circumstances of romantic involvement, the students should be aided to find other instructional or supervisory arrangements. Employees are warned that initial consent to a romantic relationship does not preclude a charge of sexual harassment in the future.

Likewise, supervisors can jeopardize the trust of those whom they supervise by raising doubts of intent, or fairness of professional judgment, or by creating an appearance to other employees of favoritism if they form or maintain a romantic relationship with an employee that they supervise. Such an involvement is unwise and inappropriate, and supervisors are urged to avoid such relationships. Supervisors are also warned that initial consent to a romantic relationship does not preclude a charge of sexual harassment in the future.

Procedures

The College provides several channels of communication and both informal and formal complaint resolution procedures to address sexual harassment complaints. It prefers to resolve complaints at the lowest possible level. When advising procedures or informal procedures are followed, however, they do not preempt other channels available within the College or to outside agencies or courts. The College recommends that any faculty, staff, or student who feels that he or she is being sexually harassed tell or otherwise immediately inform the harasser that the conduct is unwelcome and must stop. However, such

action is not required, and in some circumstances it may not be feasible, may be unsuccessful, or the individual may be uncomfortable dealing with the matter in this manner. Therefore, the College has developed procedures and trained Sexual Harassment Coordinators and others to help insure a harassment-free environment.

Advising

Any person seeking information and advice will be counseled as to the options for action available under this policy. To the extent consistent with the College's responsibility under the law and this policy, information disclosed through this advising process will be held in confidence, unless and until the initiating individual agrees that additional people must be informed in order to facilitate a solution.

Students seeking such advising or information may be referred to the Counseling Center. The Counseling Center will provide a counselor and a secure environment in which questions can be asked; information provided; and/or guidance offered should the student wish to file a formal complaint. Counselors, in the interest of safeguarding both the well-being of the student and the integrity of the College, will regard all questions and complaints as serious, and will protect confidentiality if requested by the student unless or until it is established that the risk of harm to the individual or the College necessitates a broader action.

General Guidelines for Informal and Formal Complaints

1. The Sexual Harassment Policy will be provided to the complainant and the accused.
2. Investigations will take place in a timely manner.
3. The accused will be warned against retaliation as discussed above (No Retaliation).
4. If the Sexual Harassment Coordinators and the appropriate Dean(s), Vice President, President, or Board of Regents determine that the initial allegations are serious enough to necessitate immediate removal or reassignment of an employee during an investigation, an immediate meeting of a Sexual Harassment Panel will be called, information presented, and a majority vote of those present will make recommendations on temporary moves or suspensions to the President of the College. Nothing in this provision would prohibit the College President or designee from immediately removing or reassigning a student or employee.
5. In all cases, a report documenting conclusions will be filed by a Sexual Harassment Coordinator.

Informal Complaints

After being advised, a student or employee may want to seek informal complaint resolution including mediation. The aim of informal complaint resolution is not to determine whether there was intent to harass but to ensure that the alleged offending behavior ceases and that the matter is resolved promptly at the lowest possible level.

If the matter was resolved through mediation (either through an inclusive session involving all parties, or in individual and private sessions with the coordinator) all supporting evidence and documents, should be placed with the incident report and placed in a sealed file in a secure facility in the President's office. "No fault" resolutions do not require the involvement of the sexual harassment committee or the President.

For those incidents not resolved at this level, the formal complaint procedures in this policy will go into effect. The College president or designee will determine appropriate disciplinary actions, if any against the accused.

Mediation of Informal Complaints

One of the possibilities for informal complaint resolution is mediation. The complainant or the accused may ask for mediated resolution between him or herself and the accused. The goal of the mediation procedure is to provide a forum where the complainant and the accused can, with the aid of a third party, come to a mutually agreed upon resolution. Consequently, mediation will occur only if both the complainant and the accused are willing to participate in the process and can agree on a mediator. A Sexual Harassment Coordinator may serve as mediator or suggest a third party such as a member of the Sexual Harassment Committee to act as mediator. The results of the mediation will be filed with the incident report.

Formal Complaints

Formal complaints, reduced to writing, should be filed as soon as possible. Those complaints will be handled in a timely manner.

Formal complaints of sexual harassment against an employee are filed with a Sexual Harassment Coordinator. The Sexual Harassment Coordinator(s) will conduct an investigation. If the complaint is disputed, the Sexual Harassment Coordinator(s) will notify the Sexual Harassment Committee chair of the need for a panel from the Sexual Harassment Committee.

The Sexual Harassment Committee chair, in consultation with the College President, will appoint a panel of three persons from the committee, always including at least one male and one female, whose task it is to review the results of the investigation, make findings of fact and conclusions, and make recommendations to the College President, or to the Dean of Student Services for Development and Success in the case of students. Except in the case of students, no member of the panel should come from the same College department as either the complainant or the accused. A student will serve on all panels when students are involved.

The panel may find that the charges are false and malicious; dismiss the complaint for lack of merit; find that the facts are inconclusive; find a preponderance of the evidence indicates that the accused violated the College's policy on sexual harassment and make recommendations to the President about disciplinary action; or allow the parties to sign a written statement of agreement resolving the differences between them. Further action by the College against either party is not precluded by any agreement between the parties. The findings of the panel will be rendered in writing to both parties and to the College President. The President will accept, reject, or modify the panel's recommendations and will take appropriate action.

Complaints by Students against Students

Students who feel that they have been subjected to sexual harassment by other students should discuss their concerns with counselors, faculty members, College administrators or others whom they trust. The Counseling Center is considered the central contact for sexual harassment issues or complaints involving

students. Counselors may attempt resolution through informal means or suggest mediation. All unresolved complaints, formal or informal, will be forwarded to the Sexual Harassment Coordinator(s). Counselors may also accompany and advise students throughout formal or informal processes if requested to do so by students. If a formal complaint is filed, it will be handled in the same manner as the formal complaints described in the previous section. Cases involving a student who is accused of sexual harassment will be handled in the same manner as complaints against employees except that receipt of recommendations from the panel, determination as to whether there has been a violation of policy, and the application of appropriate disciplinary action will be handled by the Dean of Student Services for Development and Success.

Appeals

Employees or students may appeal the decision of the Dean of Student Services for Development and Success or the College President by following applicable College employment policies or student grievance procedures as outlined in the Lee College Employee Handbook or College catalog.

Sexual Harassment Coordinators

The Sexual Harassment Coordinators are a team of one male and one female College employees appointed by the President on the recommendation of the Sexual Harassment Committee to two-year renewable terms. The chair of the Sexual Harassment Committee and a vice-chair of the opposite sex will serve as alternate Sexual Harassment Coordinators investigating any claim of sexual harassment. All four must undergo training.

They shall have the following primary responsibilities:

1. Promote among members of the College community an awareness of and sensitivity to the issue of sexual harassment.
2. Receive inquiries and complaints relating to sexual harassment and maintain confidential records of all complaints during the investigation.
3. Provide to complainants and accused advice and assistance concerning the application of this policy and procedure.
4. Sit on the Sexual Harassment Committee.
5. Investigate all formal complaints of sexual harassment and present findings to a panel of the Sexual Harassment Committee.
6. Keep all parties informed regularly and in writing of the status of any proceedings under this policy.
7. Advise the panel on its disciplinary recommendations.

Sexual Harassment Committee

The Sexual Harassment Committee should be widely representative of the entire College. It shall consist of five faculty members appointed by the President for staggered three-year terms (with the possibility of reappointment), five members of the non-instructional staff (including at least one representative each from administrators, administrative support personnel, and classified staff) appointed by the President for staggered three-year terms (with the possibility of reappointment), and student members, appointed by the President as needed. Student members will not participate in discussions or panels involving only

employees but will always participate in discussion involving students. Committee members will receive ongoing training in dealing with sexual harassment complaints.

In addition to composing panels to make recommendations on sexual harassment complaints, the Sexual Harassment Committee will review policy and procedure relating to sexual harassment; make recommendations to the President on changing those policies and procedure as necessary; review an annual report on the incidence of sexual assault in the College as required by the Office of Civil Rights; and review and propose educational and prevention activities on sexual harassment.

Confidentiality

Any formal complaint or informal discussion or mediation and all documents relating to them will be kept strictly confidential to the extent permitted by law, except that the appropriate administrative officers will be kept informed of formal complaints. When each complaint is concluded, all documentation will be sent by the Sexual Harassment Coordinators, to be retained as a sealed file in a secure facility in the President's Office. Access will be limited to the Sexual Harassment Coordinators, appropriate deans, and the President. The findings may be used in future investigations to establish patterns of behavior. However, all findings of violations of the Sexual Harassment policy and all sanctions imposed shall also be added to the personnel file and may also be added to the student file of any person found to be in violation of this policy.

Resource Persons

Sexual Harassment Coordinators are Keith Scheffler and Becki Griffith.