
POLICY NUMBER: 105.0

TITLE: Sexual Harassment Prevention

APPROVED: August 13, 2019

I. INTRODUCTION AND PURPOSE

Teachers' Retirement System of Louisiana (TRSL) recognizes that a productive work environment includes one that is free from discrimination, including freedom from sexual harassment. All employees are required to comply with federal, state, and local laws, government regulations, and executive orders, which relate to sexual harassment. TRSL is committed to providing its employees a work environment free from sexual harassment.

The purpose of this policy is to define the prohibited conduct which results in sexual harassment and set forth the reporting procedures and remedies available to employees who believe they have been harassed. This policy is also meant to educate and inform TRSL employees about sexual harassment and to facilitate the maintenance of a work environment free of sexual harassment.

II. PROHIBITED CONDUCT

- A. Sexual harassment is a form of discrimination that is prohibited by federal and state law including the Equal Employment Opportunity Act, 42 U.S.C. 2000e-2; the Louisiana Employment Discrimination Law, R.S. 23:301 *et seq*; and the Louisiana laws on the prevention of sexual harassment, R.S. 42:341 *et seq*.

Sexual harassment can take many forms, including unwelcome sexual advances, requests for sexual favors and other verbal, physical or inappropriate conduct of a sexual nature. Sexual harassment can involve behavior by a person of either gender against a person of the same or opposite gender. Sexual harassment may include conduct of any manager, administrator or supervisor toward a subordinate employee, or conduct of one employee toward another employee of equal or greater rank. It may also include words or conduct by a vendor, client or visitor to TRSL. Finally, an employee may be the victim of sexual harassment because he/she has been affected by inappropriate behavior toward a co-worker.

- B. Unwelcome conduct is unsolicited conduct that the employee regards as undesirable or offensive. Unwelcome sexual words or conduct constitute sexual harassment when:

1. Submission to such conduct is explicitly/implicitly a term or condition of employment; or
2. Submission to or rejection of such conduct is used as a basis for employment decisions (i.e., continued employment, evaluations, wages, advancement, assigned duties, shifts or any other condition of employment or career development); or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

C. Sexual harassment may include, but is not limited to, the following:

1. Unwelcome sexual flirtations, advances or propositions;
2. Unwelcome sexual teasing, jokes, remarks or inquiries;
3. Unwelcome sexual looks or gestures;
4. Verbal or written abuse of a sexual nature;
5. Requests for sexual favors;
6. Graphic, verbal or sexual comments about an individual or to describe an individual's body;
7. Unwelcome physical contact (i.e., touching, rubbing against, leaning over, brushing, pinching);
8. Sexually degrading words and demeaning or inappropriate terms;
9. Sexual or insulting noises;
10. Using crude and offensive language of a sexual nature;
11. Discussing sexual activities or exploits;
12. Inappropriate commenting on a person's attributes; and/or
13. Displaying sexually suggestive objects, statements, graffiti, books, magazines, photographs, cartoons or pictures.

III. APPLICABILITY

All employees, regardless of their position, are covered by and are expected to comply with this policy. Employees are required to take appropriate measures to ensure that prohibited conduct does not occur. This policy also applies to applicants for employment and conduct toward members of the public visiting TRSL and persons doing business with TRSL.

IV. POLICY STATEMENT

A. TRSL strictly prohibits sexual harassment of employees. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment will not be tolerated by TRSL. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint similarly will not be tolerated.

- B. TRSL will act in a manner that recognizes the seriousness of allegations of sexual harassment and will respond promptly and appropriately to complaints of sexual harassment. When it is determined that such inappropriate conduct has occurred, TRSL will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.
- C. While this policy sets forth TRSL's goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit TRSL's authority to discipline or take remedial action for workplace conduct which is deemed unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment. The verbal and physical behavior proscribed herein is always inappropriate in the workplace and hence, violates TRSL policy, although such behavior may not be actionable in a court of law as a civil action.
- D. The intent of this policy is to express TRSL's commitment and responsibility to protect its employees from sexual harassment and from retaliation for participating in a sexual harassment complaint. It is not intended to infringe upon constitutionally-guaranteed rights. In considering allegations of sexual harassment, TRSL will recognize the rights of both the complainant and the accused.

V. COMPLAINT PROCEDURES

- A. TRSL's procedures for the reporting of sexual harassment and the filing of a complaint can be found in the *Sexual Harassment Prevention Procedures* document. Such procedures clearly outline the actions that an employee can take to report sexual harassment.
- B. The filing of a good faith complaint will not be used against an employee and will not have an adverse impact on the individual's employment status.
- C. The filing of an intentionally false and/or malicious complaint is an abuse of this policy and strictly prohibited. When an investigation confirms that an employee has filed a groundless and/or malicious complaint, appropriate disciplinary action will be taken.

VI. COMPLAINTS OF SEXUAL HARASSMENT

- A. **Reporting.** Any employee experiencing or witnessing sexual harassment by anyone affiliated with TRSL, including any manager, supervisor, administrator, co-worker, vendor, client or visitor, shall immediately report the inappropriate conduct. Any such complaint may be made verbally or in writing. Under most circumstances, complaints should be made to the employee's supervisor. If the complaint involves the employee's supervisor

or someone within the direct line of supervision, or if the employee, for any reason, is uncomfortable in reporting to his/her supervisor, he/she may contact any other supervisor or directly contact the Human Resources Department.

Once an individual discloses identifying information, and such information is sufficiently complete and specific to state a claim of sexual harassment or retaliation, they will be considered to have filed a complaint with TRSL.

- B. **Actions.** All proven cases of sexual harassment will result in appropriate disciplinary or other corrective action. The severity of the disciplinary action will be consistent with the seriousness of the act of sexual harassment including, and up to, dismissal from employment. Additionally, under appropriate circumstances, TRSL will take action to protect its employees from sexual harassment by individuals who are not employees of TRSL. All actions taken on the complaint shall be documented.
- C. **Confidentiality.** Particular care will be taken in the course of investigations to protect the confidentiality of all involved. TRSL will strive to preserve confidentiality to the extent permitted by law, including the Louisiana Public Records Law which may necessitate the release of certain records pursuant to a request under law.

VII. NON-RETALIATION

- A. Any employee making a good faith complaint of sexual harassment will be protected from retaliation, reprisal, and harassment. Likewise, any employee providing information or otherwise participating in the investigation of a complaint of sexual harassment will be protected from retaliation, reprisal, and harassment.
- B. If a complaint is made and the investigation reveals that retaliation, reprisal or harassment has occurred against a complaining employee or anyone participating in the investigative process, appropriate disciplinary action will be taken.

VIII. INVESTIGATION AND RESOLUTION OF COMPLAINT

- A. Procedures for the investigation of sexual harassment complaints: 1) provide that an investigation will be conducted by the Human Resources Director or his/her designee, set forth protocol that ensures a prompt and thorough review of the complaint, 2) provide that the alleged sexual harasser and the alleged victim will participate in the investigation; and 3) provide for the preparation of a written report and recommendation to the TRSL Director.
- B. The TRSL Director will determine the resolution of any sexual harassment investigation, which, in cases where sexual harassment is found to have

occurred, will include appropriate disciplinary or other corrective action. The totality of the circumstances will be considered, including the pervasiveness, offensiveness, and unwelcome nature of the conduct. The severity of the disciplinary action may also consider the employee's work history, length of service, prior disciplinary record and other factors, consistent with other disciplinary determinations. Each situation will be addressed on a case-by-case basis.

IX. ALTERNATIVE LEGAL REMEDY

In addition to the complaint process and procedures provided by TRSL, any employee who believes that he or she is being or has been subject to sexual harassment has the right to file a complaint with other applicable state or federal agencies. This policy is intended to supplement rather than replace or supersede the private and/or statutory procedures regarding sexual harassment available to employees under state and federal law, including Title VII of the Civil Rights Act of 1964 and La. R.S. 23:301 *et seq.* Employees retain the right to file a complaint of discrimination with the Equal Employment Opportunity Commission, the Louisiana Civil Service Commission, the Louisiana Commission on Human Rights or pursue any other remedy available under law. This procedure does not extend any time limitations for filing a complaint with a state or federal agency. Employees should be aware of the time delays and requirement of law, which require the filing of a complaint with the Equal Employment Opportunity Commission or the Louisiana Commission on Human Rights. This information is posted in the Human Resources Department.

X. MISCELLANEOUS PROVISIONS

Employees should be aware of the following provisions regarding sexual harassment claims and settlements added to Louisiana Revised Statutes:

- A. In accordance with La. R.S. 42:351 *et seq.*, if a claim of sexual harassment is filed, the sexual harasser shall be responsible for the payment of all or a portion of the amount of a settlement or judgment if the Office of Risk Management determines that sexual harassment did occur.
 1. The amount the sexual harasser must contribute to any settlement or judgment is based on the consideration of certain factors as provided in La. R.S. 42:353.
 2. The Louisiana Attorney General may file a suit against the sexual harasser to enforce the state's right to reimbursement and indemnity from the sexual harasser for any portion of the settlement or judgment and to recover all costs and attorney fees incurred as well all costs and reasonable attorney fees incurred by the Attorney General for asserting that right.

- B. In accordance with La. R.S. 13:5109.1, no settlement agreement related to a sexual harassment or sexual assault claim against the state or any employee/officer of the state or a state agency may contain a nondisclosure agreement of the terms of the settlement if public funds are used to pay any part of the settlement.
 - 1. Any settlement related to a sexual harassment claim shall be a public record, with the exception of the name of the victim of the sexual harassment.

XI. COMMUNICATION AND TRAINING

- A. TRSL is committed to preventing and eliminating misconduct in the workplace before it rises to the level of sexual harassment. To accomplish this goal, each TRSL employee will be provided with a copy of this policy and acknowledge receipt of the same. In addition, TRSL's policy against sexual harassment will be available to all employees in the Human Resources Department and on the intranet. In addition, this policy will be implemented through the complaint investigation process and procedures.
- B. Since 2013, all TRSL employees have been required to complete a minimum of one hour of education and training on sexual harassment during each calendar year. Training is provided and received either in person or via the internet.
- C. Beginning January 1, 2019, all TRSL supervisors and any persons designated to accept or investigate a complaint of sexual harassment shall receive an additional one hour of education and training.
- D. In compliance with law, TRSL will disseminate notice to staff members as provided by the Division of Administration (DOA) advising them of their potential liability if a sexual harassment results in a settlement or judgment against the state or that staff member.
- E. The TRSL Human Resources Director is the agency designee for providing information and instruction on sexual harassment. This designee and his or her contact information will be posted on the TRSL intranet.
- F. This policy is in compliance with La. R.S. 42:341 *et. seq.* As such TRSL's policy against sexual harassment and the complaint procedure is posted on the TRSL website.

XII. RESPONSIBILITIES

- A. **Employees.** All TRSL employees share the responsibility of understanding and preventing sexual harassment and must comply with all reporting requirements set forth in this policy. Individuals who believe they have been

sexually harassed or have witnessed sexual harassment must inform their supervisor, department manager, or the Human Resources Director of the act of sexual harassment, recounting specific actions or occurrences whenever possible. All employees must cooperate in any investigatory process involving a sexual harassment complaint.

- B. **Supervisors.** Department managers and supervisors have the responsibility to promptly report sexual harassment to the Human Resources Director. If a supervisory employee knows that sexual harassment is occurring, or receives information that harassment might be occurring, they must take immediate action to report such occurrences.

- C. **Human Resources Director.** TRSL's Human Resources Director has the primary responsibility of administering this policy. In particular, the Human Resources Director or his/her designee will respond to inquiries and complaints from employees regarding sexual harassment or retaliation; will conduct all investigation of complaints; will maintain records of these inquiries and complaints as well as their resolution; and will keep the Director advised of such. The Human Resources Director is responsible for providing information and education to employees and management on recognizing, understanding, and combating unlawful sexual harassment. The Human Resources Director is also responsible for disseminating to all staff and newly hired employees the DOA-prepared notice of potential liability for any sexual harassment claims resulting in a settlement or judgment.

XIII. MANDATORY REPORTS

- A. The TRSL Director shall compile an annual report by February 1 (beginning in CY 2020) containing information from the previous calendar year regarding TRSL's compliance with applicable law regarding the prevention of sexual harassment.

- B. The report will be submitted to the Division of Administration on or before February 15 each year and will be available as a public record in the manner provided by the Public Records Law, La. R.S. 44:1 *et seq.* The report will include:
 - 1. The number and percentage of TRSL employees who have completed the training requirements;
 - 2. The number of sexual harassment complaints received by TRSL;
 - 3. The number of complaints which 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; and

5. The amount of time it took to resolve each complaint.

XIV. EXCEPTIONS

There are no exceptions to this policy.

XV. QUESTIONS

Questions regarding policy formulation and application should be directed to the Human Resources Department. The Human Resources Director, in consultation with senior management, will clarify any provision or language that is ambiguous or unclear.

XVI. AUTHORITY/APPLICABLE LAW

Federal Statute: Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*

State Statute: La. R.S. 23:301 *et seq.*; La. R.S. 44 :1 *et seq.*; La. R.S. 13:5108.1; La. R.S. 13:5109.1; La. R.S. 42:342(B) ; La. R.S. 42:351 *et seq.*

Regulation: 29 C.F.R. Part 1604.11 of the Equal Employment Opportunity Commission

XVII. HISTORY

Adopted 04/01/1994;

Revised 06/07/2002; 04/15/2009; 6/29/2013, 11/16/18, 8/13/19

XVIII. RELATED REFERENCES, POLICIES AND PROCEDURES

TRSL Sexual Harassment Prevention Procedures
TRSL Sexual Harassment Complaint Form
Senate Concurrent Resolution 107 of the 2012 Regular Legislative Session
ACT 270 of the 2018 Regular Legislative Session
ACT 35 of the 2019 Regular Legislative Session
ACT 413 of the 2019 Regular Legislative Session

XIX. RESPONSIBLE POSITION/DEPARTMENT

Human Resources Department

TITLE: Sexual Harassment Prevention
Procedures

EFFECTIVE DATE: 8/13/19

POLICY SOURCE: 105.0

I. INTRODUCTION AND PURPOSE

The Teachers' Retirement System of Louisiana (TRSL) *Sexual Harassment Prevention Policy* sets forth TRSL's policy prohibiting sexual harassment in the workplace and provides for the creation of a process and procedures whereby an employee can file a complaint if he or she believes that the policy has been violated. The Sexual Harassment Policy also provides for the investigation of sexual harassment complaints. The TRSL *Sexual Harassment Prevention Policy* provides the type of behavior which amounts to sexual harassment and how TRSL will approach and address sexual harassment in the workplace.

These procedures establish a process by which an employee who believes that he or she has been harassed can file a complaint and the steps that will be followed in the investigation of a complaint.

II. FILING A REPORT OR COMPLAINT OF SEXUAL HARASSMENT

- A. Every employee shall report unacceptable behavior which may violate the *Sexual Harassment Prevention Policy*. This includes any individual who (or group which) believes that they have been the target of sexual harassment or retaliation or who has observed incidents believed to be sexual harassment.
- B. The report or complaint (hereinafter referred to as "complaint") should be made to the supervisor, department manager, TRSL Assistant Director, TRSL Deputy Director, TRSL Director, and/or TRSL Human Resources Director.
- C. The complaint may be made verbally or in writing and should include the name(s) of the offender(s), when and where the offense occurred, what behavior or situation was offensive, the names of any witnesses, and any other information which may be related to the offense. If possible, documentation which is available should be included in the complaint or provided at that time.

- D. Written complaints should be made using the *TRSL Sexual Harassment Complaint Form*. Employees making verbal complaints will be asked to reduce the complaint to writing on such form.
- E. The TRSL Director or his or her designee shall be notified of the filing of a sexual harassment complaint.

III. INVESTIGATION OF A COMPLAINT OF SEXUAL HARASSMENT

- A. Each sexual harassment complaint shall be investigated by the Human Resources Director or his/her designee ("Investigator"). Investigations will be conducted by the investigator promptly and to the fullest extent practicable. The Investigator shall provide a written report of the status of the investigation within ten (10) working days of its filing to the TRSL Director.
- B. In determining whether alleged conduct constitutes sexual harassment, the Investigator will consider the surrounding circumstances, the nature of the sexual advances, relationships between the parties involved, and context in which the alleged incidents occurred.
- C. Both the alleged sexual harasser and the alleged victim are required to participate in the investigation. The investigation may also consist of personal interviews of others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.
- D. In each investigation, the *Sexual Harassment Prevention Policy* will be explained to all participants to ensure understanding and compliance.
- E. Each individual interviewed will be informed that any coercion toward or retaliation or reprisal against anyone who has made a complaint or who has provided evidence in connection with a complaint is strictly prohibited and will result in appropriate disciplinary action.
- F. Upon completion of the investigation, the Investigator will provide the TRSL Director with a report which should generally include factual findings and a recommendation of remedial measures, including disciplinary action where appropriate. The TRSL Director will make a determination as to the resolution of the investigation.
- G. All proven cases of sexual harassment will result in appropriate disciplinary or other corrective action. The totality of the circumstances will be considered, including the pervasiveness, offensiveness and unwelcome nature of the conduct. The severity of the disciplinary action may also consider the employee's work history, length of service, prior disciplinary

record and other factors, consistent with other disciplinary determinations. Each situation will be addressed on a case-by-case basis.

- H. The complainant will be advised of the results of the investigation upon its conclusion and instructed to report any future incidents of harassment, retaliation, or reprisal which might occur immediately.
- I. If the complaint was found to be based in fact, the TRSL Director or designee will follow-up with the complainant in one to two months to assure that the harassing behavior has ceased and the environment is acceptable.
- J. If the complaint is found to be intentionally false, the TRSL Director or designee will determine appropriate disciplinary action for the complainant up to, and including, dismissal.

IV. RELATED REFERENCES, POLICIES, PROCEDURES, AND FORMS

TRSL Sexual Harassment Prevention Policy
TRSL Sexual Harassment Complaint Form



Sexual Harassment Complaint Form

Employee Name:	Department:
Position Title:	Name of Immediate Supervisor:

STATEMENT OF COMPLAINT
 (Be specific. Please read the TRSL Sexual Harassment Policy before completing this section.)

Name of Person(s) Accused of Sexual Harassment:	Date and Time of Incident (Indicate AM/PM):
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Name(s) of Witnesses:

Description of Incident (Describe actions of all person(s) involved, including yourself. Use additional sheets if needed.)

Evidence of sexual harassment, i.e. letters, photos, etc. (attach evidence if possible)

Employee Signature:	Date:
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COMPLAINT SUBMITTED TO: (Check One)

<input type="checkbox"/> Human Resources Director/Personnel <input type="checkbox"/> Supervisor/Other	_____ (Name) _____ (Name)
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_____ Human Resources Director/Personnel, Supervisor, or Other Signature	_____ Date
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