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Faculty Responsibilities: EEO Regulations, Compliance, and Sexual Harassment

Presented by: David Gleason

Director of Employee Services
Human Resources Management

September 4, 2008



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About Human Resources...

- Business Affairs team
- Supporting faculty's teaching, research and service mission.
- Benefits, payroll, employment, compensation, employee relations, & employee development.
- Email, call, or visit us with any questions or concerns.

Office of Human Resources: 972-883-2221



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Equal Employment Opportunity

It is the policy of The University of Texas at Dallas to provide an educational and working environment that provides equal opportunity to all members of the University community.

UTD Administrative Policies & Procedures
D11-195.0



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EEO Laws...

- **Primary laws:**
 - Title VII Civil Rights Act
 - Americans with Disability Act
 - Age Discrimination Employment Act
 - Other Federal laws/statutes
 - TX Commission on Human Rights Act
- **Enforcement agencies:**
 - EEOC (Federal)
 - Texas Workforce Commission Civil Rights Division (State)
 - DOE (Office of Civil Rights) – Title IX



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Protected Classes...

- Race
- Color
- National Origin
- Religion
- Gender
- Age
- Disability



UTD Policy: Veterans & Sexual Orientation



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EEO Transactions...

- Hiring:
 - Recruiting, screening, interviewing and selection
- Employment opportunities:
 - Promotions, compensation, advancement, training, etc.
- Discipline
- Termination





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Discriminatory or not...

1. Because of a heavy accent, you refuse to hire someone who will be primary point of contact for your research project.
2. You advertise for project manager position and request that they be a recent college graduate.
3. You reject an applicant who can't demonstrate keyboarding skills at a 40 wpm rate.
4. A woman applies for a position that requires good attendance. During the interview, she mentions having a disabled child. She is highly qualified but you reject her for fear of high absenteeism.



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Retaliation...

- A separate cause of action
- Growing # of cases
- Recent Supreme Court rulings
- “Innocent but guilty”
- Consult with HR.





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Terminating an employee...

- Classified vs. A&P employees
- Probation period (Classified)
- Grounds for termination:
 - Work performance
 - Misconduct
- Documentation
- Follow UTD policies & procedures
- Consult first with HR.



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Annual Performance Reviews...

- Classified and A&P employees
- Probationary reviews (Classified staff)
- Annual reviews:
 - Due during first quarter of year
 - Training available
- Communication tool
- Not required for student workers.



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Sexual Harassment

Nearly two-thirds of college students experience some type of sexual harassment. Yet less than 10 percent of these students tell a college or university employee about their experiences...

Drawing the Line: Sexual Harassment on Campus
AAUW Publication (2005)



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Sexual Harassment-UTD Policy

The University of Texas at Dallas is committed to the principle that the learning and working environment of its students, employees and guests should be free from sexual harassment and inappropriate sexual conduct.

UTD Administrative Policies & Procedures
D11-115.0

- Unprofessional
- Form of sex discrimination
- Everyone held accountable



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Sexual Harassment

Unwelcome sexual conduct

Verbal/Non-verbal



Physical

Requests for sexual favors



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Sexual Harassment occurs...

- When submission is made either explicitly or implicitly a *term or condition* of an individual's employment; or
- When submission to (or rejection of) the conduct is used as a *basis for employment decisions* affecting that individual; or
- When the conduct has the purpose or effect of unreasonably *interfering* with the victim's work performance or creates an *intimidating, hostile* or *offensive* working environment.

Can substitute education for employment – Title IX



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Some basic facts...

- Anyone can be a victim, and anyone can be a perpetrator.
- Includes same sex harassment
- On the job, conduct is considered sexual harassment if it's *unwelcome*, based on a person's sex, and interferes with person's ability to do his or her job.
- For students, harassment is behavior that interferes with the students' ability to get an education.



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Two types...

- **Quid pro quo:**
Quid pro quo harassment is asking for sexual favors in exchange for special treatment or a threat if the victim does not consent.
- **Hostile work environment:**
Takes place when speech or conduct of a sexual nature is so severe, persistent or pervasive that it interferes with the victim's work performance, or creates an intimidating, hostile or offensive environment



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Quid pro quo...

- A supervisor lets a subordinate know that he/she will be laid off unless he/she gives in to supervisor's sexual advances.
- A supervisor suggests that he/she can help a subordinate get a promotion if the subordinate goes out with him/her.
- A professor implies that if a student engages in sexual activity, he/she will give the student a better grade or receive some other advantage.



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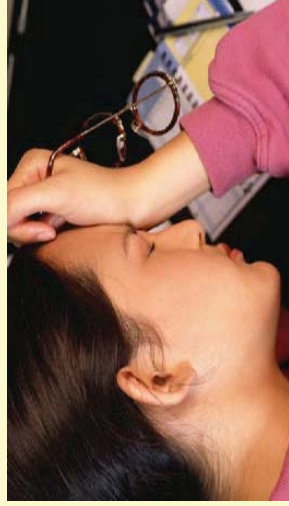
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Hostile Environment...

Key conditions:

1. Victim must have been personally offended by the conduct; and
2. Conduct must have been so severe and/or pervasive that a reasonable person in that situation would have found it offensive.



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Hostile Environment Examples

- Talking about sex
- Telling dirty jokes
- Unnecessary and/or inappropriate touching
- Commenting on physical attributes
- Showing sexually graphic or suggestive pictures
- Using demeaning or inappropriate terms
- Insulting sounds, whistles
- Using sexually suggestive gestures
- Sabotaging someone's work because of his/her gender
- Engaging in physically intimidating conduct like blocking someone's path
- Giving or promising to those who will consent to sexually related activity
- Using crude and offensive language



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Important points...

- Intent is not an issue
- Focus is from the victim's perception
- How that action made victim feel
- Reasonable person/woman standard





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Key factors to remember...

- Asking for sexual favors in exchange for a benefit or protection from something negative (quid pro quo)
- Frequency/severity of the unwelcome conduct.
- Was conduct physically threatening, humiliating, or simply offensive words?
- Did the conduct unreasonably interfere with the victim's work or academic performance?
- Effect on the victim's well-being
- If the harasser was the victim's supervisor.



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Conduct need not be sexual...

- Two male employees sabotage the work of a female co-worker because she is a woman.
- A male TA constantly stares at a female student for long periods of time. She tells him to stop, but he continues to do with regularity.
- Male on male “horseplay”
- Sounds, gestures, etc.



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Consensual Relationships...

- Discouraged
- Often begins as consensual
- Key issue: unequal power
 - Faculty to student
 - Supervisor to subordinate
- AAUP guidelines
- Third party sexual harassment complaints



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Serious business...

- University will not tolerate violations of sexual harassment policy.
- Even if conduct doesn't meet the strict legal standards for sexual harassment, it may still violate campus policy.
- Subject to corrective actions.
- Can impact your career at UTD.



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Serious business...

- Have to treat it very seriously
- University held liable:
 - Institution reputation and resources at risk
 - Liable for conduct of supervisors/faculty
 - Even if supervisor’s behavior was not known to the administration
- Personal and professional risks
- Aggravation and embarrassment of the complaint & investigation.



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Complaint procedures...

- May be reported to:
 - Deans, Directors, supervisors, colleagues
 - Human Resources
 - Dean of Students
- Investigation (formal vs. informal)
- Confidentiality & due process
- Appropriate action
- Warnings against retaliation
- False allegations?



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If you experience harassment...

- **DON'T** let it slide. Report it!
- **DO** contact HR.
- The University will investigate the complaint
- We will not make the complaint public, but we will have to tell some people in order to investigate and take appropriate corrective action.
- UTD will not allow retaliation for filing a complaint, and will take action against anyone who retaliates.



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Be a part of the solution...





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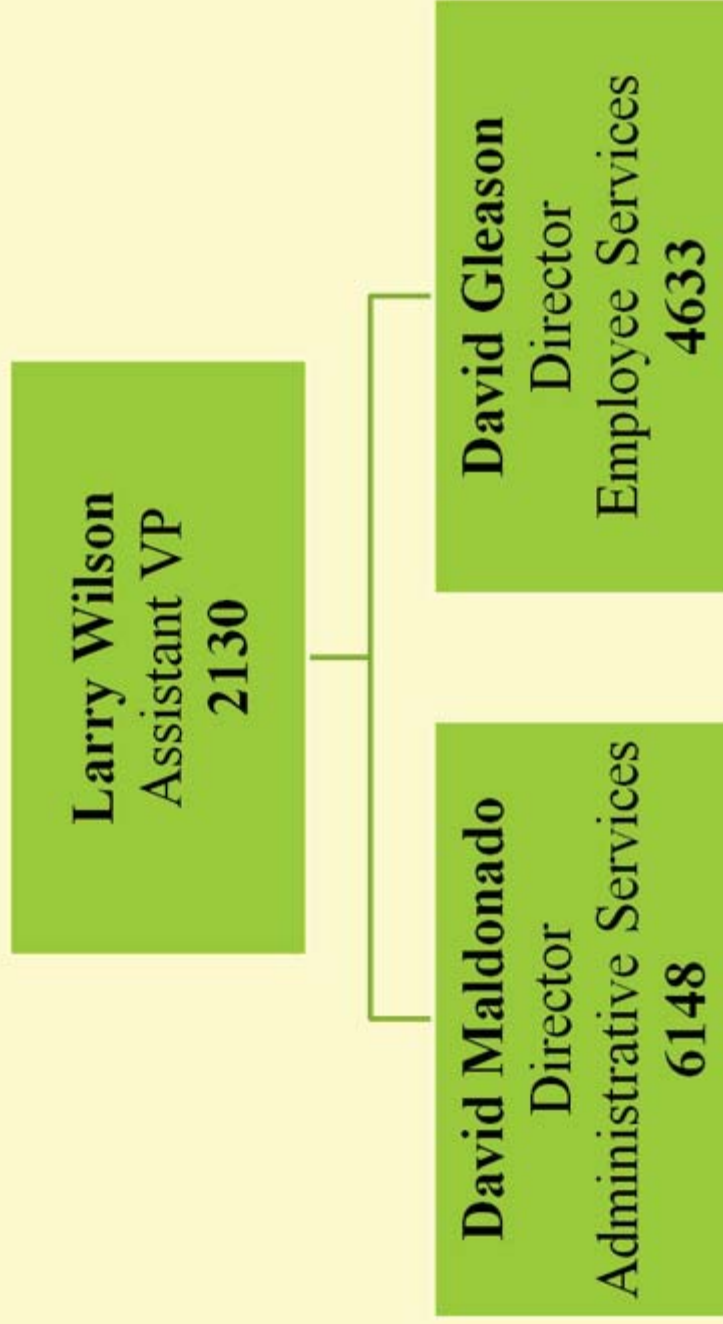
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Contact Information...

Main Phone #: (972) 883-2221



<http://www.utdallas.edu/hrm/>