

# Management System: Human Resources

## Subject Area: Sexual Harassment

Effective Date:  
July 1, 2009

Subject Matter Expert:  
Shirley Kendall

Management System Steward:  
Tony Bowman

### Introduction

Sexual harassment is considered a form of sex discrimination and is therefore an unlawful employment practice under Title VII of the 1964 Civil Rights Act. Brookhaven National Laboratory (BNL) strictly prohibits any form of sexual harassment and will promptly address employee concerns in this area.

This prohibition is highly consistent with BNL policy, particularly those related to professional and ethical conduct and adherence to laws, stated as follows:

- We are committed to maintaining the highest ethical and professional standards in the conduct of our duties; all staff and guests shall conduct themselves in accordance with these standards in their relationships with each other, our customers, the public, and BNL.
- All staff shall comply with applicable laws, regulations, and contractual obligations, as well as BNL policies and standards of performance.

There are two types of sexual harassment. One involves employment conditions, i.e. submission to sexual conduct is made a condition of employment, or if employment decisions such as hire, retention or promotion are based on submission to or rejection of sexual conduct. This usually involves someone in a position of authority who can grant or deny a person employment or advancement opportunities.

The other type of sexual harassment involves sexual conduct that interferes with a person's work performance or creates an intimidating, hostile or offensive working environment. This may take the form of vulgar and offensive language, jokes, slurs, or other inappropriate conduct of a sexual nature, such as, but not limited to:

- Showing or displaying pictures with obvious sexual content
- Using foul language which includes words with sexual overtones
- Touching or grabbing parts of a person's body in a manner having sexual overtones
- An invitation to or remarks regarding a sexual relationship.

This subject area provides guidance on the responsibilities of supervisors, staff and case managers in maintaining a workplace free of sexual harassment, and the processes they should use to respond to any incidences that may occur.

### Contents

Section	Overview of Content (see section for full process)
1. Supervisory Staff	<ul style="list-style-type: none"><li>• Awareness of possible sexual harassment issues.</li><li>• Contact Director, Human Resources &amp; Occupational Medicine (HR&amp;OM).</li><li>• Follow direction of Case Manager.</li><li>• Assure no retaliation.</li><li>• Submit copies of case investigation material.</li></ul>

2. All BNL Staff
  - Inform offender of unwelcome or objectionable behavior.
  - Notify management or Director, HR&OM.
  - Utilize Employee Assistance Program.
  - Contact Safeguards and Security Manager.
3. Human Resources and Diversity Office Staff
  - Notify Director, HR&OM of any allegations of sexual harassment.
  - Questions or comments brought to attention of Director, HR&OM.
  - Director, HR&OM determines next step.
4. Case Manager
  - Authorize investigation and assign case manager.
  - Initiate investigation.
  - Discuss with Director, HR&OM and decide on appropriate disciplinary action.
  - Issue letter of closure.
  - Establish file of record with appropriate material.
  - Follow-up with victim.

## **Definitions**

## **Exhibits**

None

## **Forms**

None

# **Training Requirements and Reporting Obligations**

This subject area contains the following training requirement:

- All DOE contractor employees who are required to complete sexual harassment training.
- All employees, visitors, guests and contractors are expected to report any incidences of inappropriate behavior to line management.

This subject area does not contain reporting obligations.

## **External/Internal Requirements**

RODs to be Determined or Updated

## **References**

Supervisor's Personnel Manual – Section 21.0 Equal Employment Opportunity/Diversity Programs.

## **Standards of Performance**

All employees, visitors, guests, contractors are expected to conduct themselves in an appropriate manner, respecting the rights of coworkers to work in an environment free of sexual harassment.

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## 1. Supervisory Staff

Effective Date:  
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Management System Steward:  
Tony Bowman

### Applicability

This information applies to all employees of the Laboratory who perform in a supervisory capacity.

### Required Procedure

<b>Step 1</b>	Remain sensitive and aware of events and/or behavior that may be perceived as sexual harassment.
<b>Step 2</b>	Contact the Director, Human Resources & Occupational Medicine (HR&OM) immediately upon notification of a potential sexual harassment issue.
<b>Step 3</b>	Follow the direction and guidance of the Case Manager appointed by the Director, HR&OM.
<b>Step 4</b>	Assure that there is no retaliation to sexual harassment allegations.
<b>Step 5</b>	Submit copies of all case investigation material to Case Manager to be held in a file of record.

### Guidelines

Supervisors will be informed by the Case Manager how an employee concern that they report will be addressed. This will enable them to respond to employee questions and participate most effectively in resolving a concern.

The resolution of a concern can be accomplished in many ways, based on the nature of the concern. Concerns may range from inappropriate language or wall decorations to inappropriate attention or touching. Another factor to be considered is the number of times a behavior has been repeated. Some cases may require the removal of offensive items from the workplace, while other cases may result in employee discipline. In all cases, the resolution will result in the cessation of inappropriate behavior.

Employees may hesitate to report a concern related to sexual harassment because they do not know what will happen as a result of their reporting it. BNL wants employees to be confident that they will be protected.

Supervisors can play a key role in ensuring employees that their concerns will be addressed in a way that protects them from any form of retaliation and ensures their safety. They should ensure the employee that their concerns will be reported privately and directly to the Director, HR&OM who will appoint a Case Manager with experience in addressing concerns effectively but tactfully. While some concerns may be resolved quickly and easily without further involvement of the employee, employees should be assured that they will be offered the opportunity to speak with the Case Manager if they wish.

For any concern that requires investigation, the Case Manager will speak to the employee early in the investigation to gather information about their concern, and the employee will then, at that initial stage, have an opportunity to alert the Case Manager about their sense of a need for protection.

The employee should be ensured that the primary objective is their protection, while ensuring that inappropriate behavior is stopped permanently.

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## 2. All BNL Staff

Effective Date:  
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Tony Bowman

### Applicability

This information applies to all employees, guests, visitors or contractors of the Laboratory.

### Required Procedure

<b>Step 1</b>	If able, employees who believe they are the subject of unwelcome behavior should inform offending individual(s) that behavior is unwelcome or objectionable. <b><i>This means saying “no” or “stop” or other phrasing that clearly expresses a desire to have the unwelcome behavior end.</i></b>
<b>Step 2</b>	If unwelcome behavior continues, notify line management, or the Director, Human Resources & Occupational Medicine (HR&OM), of sexual harassment concerns.
<b>Step 3</b>	Utilize the services of the Employee Assistance Program, if needed.
<b>Step 4</b>	Contact Safeguards and Security Manager for information regarding assistance from municipal law enforcement agencies, if needed.

### Guidelines

All employees are expected to conduct themselves in an appropriate manner, respecting the rights of coworkers to work in an environment free of sexual harassment.

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### **3. Human Resources and Diversity Office Staff**

Effective Date:  
**July 1, 2009**

Subject Matter Expert:  
Shirley Kendall

Management System Steward:  
Tony Bowman

#### **Applicability**

This information applies to all staff members of the Human Resources and Occupational Medicine (HR&OM) Division and the Diversity Office.

#### **Required Procedure**

<b>Step 1</b>	Any HR&OM or Diversity staff member approached by an employee making allegations of sexual harassment must notify the Director, HR&OM immediately. To avoid duplication of services and loss of oversight, the Director, HR&OM will either assign a case manager or, in the case of an ongoing investigation, forward any new information brought forward to the assigned case manager.
<b>Step 2</b>	Questions or comments by the alleged harasser to an individual not assigned as the case manager must be brought to the attention of the Director, HR&OM immediately, regardless if the case is open or closed.
<b>Step 3</b>	Director, HR&OM will determine the next step.

#### **Guidelines**

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## 4. Case Manager

Effective Date:  
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Subject Matter Expert:  
Shirley Kendall

Management System Steward:  
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### Applicability

This information applies to all employees assigned as a case manager for a sexual harassment issue.

### Required Procedure

<b>Step 1</b>	Director, Human Resources & Occupational Medicine (HR&OM) grants authority to initiate an investigation and assigns a case manager.
<b>Step 2</b>	Initiate a prompt, thorough and impartial investigation while protecting the confidentiality of all parties.
<b>Step 3</b>	Question the charging party and the alleged harasser in detail and search thoroughly for corroborative evidence of any nature, such as what could be provided by supervisory and managerial employees, co-workers, and prior case findings, as appropriate. At all times, the "reasonable person standard" should be applied.
<b>Step 4</b>	Discuss with the Director, HR&OM the findings of the investigation and receive approval for appropriate disciplinary actions, if warranted.
<b>Step 5</b>	Issue letter of closure of the case to report findings, regardless of the outcome of the investigation. Copies go to the charging party and the alleged harasser.
<b>Step 6</b>	Ensure that copies of desk notes from supervisors as well as others involved are included in the file of record maintained under the supervision of the Director, HR&OM. All investigative material is required to be included along with official findings and letter of closure, regardless of the outcome of the investigation.
<b>Step 7</b>	Make follow-up inquiries to ensure the harassment has not resumed and the victim has not suffered retaliation.

### Guidelines

# Definitions: Sexual Harassment

Effective Date: July 1, 2009

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Term	Definition
Sexual Harassment	unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that creates an intimidating, hostile or offensive working environment
Case Manager	individual who is certified as an EEO professional by an external training institution and who completed at least two 8-hour training sessions in Sexual Harassment and appointed by the Director of Human Resources to ensure that the Laboratory responds to an expressed concern regarding sexual harassment in an organized and effective manner
Reasonable person standard	