

Chapter 2: Defining It— Terms and Definitions

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One of the most thought-provoking challenges in sexual harassment discussions is defining terms. This chapter invites readers to consider a variety of definitions and subcategories before jumping into other chapters, especially Chapter 4 in which readers are invited to interrogate sexual harassment scenarios. Admittedly, there are pitfalls in leaning too heavily on definitions. Following the unattributed adage “To define the terms is to win the argument” to its extreme may result in reducing dialogue about sexual harassment to a narrow, unproductive contest. Despite this drawback, the definition of terms is fundamental to this project.

The importance of definitions was emphasized in Mark V. Roehling and Jason Huang’s 2018 article in which they argued that misalignment and confusion about definitions can cause problems in sexual harassment training and make the results of such training difficult to ascertain. This is especially important, they assert, when scenario-based training asks participants to make judgments about particular situations (p. 135-136). This chapter, however, takes into account the fact that definitions are rhetorical constructions in which choice of words, hierarchy of presentation, subtleties of punctuation, and more can make for substantive differences. Because writing studies professionals know the importance of such differences, this chapter invites readers to dig into a variety of definitions to gain a deeper and more nuanced understanding of sexual harassment. Even though this rhetorical approach may not result in the precise definitions Roehling and Huang would prefer, considering nuances allows readers to take into account the contexts, both local and cultural, in which the definitions were created and the differences those contexts make. Definitions alone cannot make the kind of cultural

change needed to curb sexual harassment, but considering them can provide the foundation necessary for the conversations that can lead to cultural change.

Understanding that sexual harassment is a type of sexual discrimination is an important step in definitions. Sexual discrimination is a broad term that includes many types of behavior. According to the Equal Employment Opportunity Commission, “Sex discrimination involves treating someone (an applicant or employee) unfavorably because of that person’s sex” (“Sex-based discrimination,” n.d. para. 1). The foundation of this kind of discrimination is unequal treatment on the basis of sex, including hiring practices, pay, office space, and more. Sexual harassment, a substantial category of sexual discrimination, is typically broken down into several sub-categories. This chapter defines sexual harassment as well as ten sub-categories that the contributors deemed important.

Each definition follows a general pattern: first, popular press, followed by legal, and then institutional definitions. The ten sub-categories (in alphabetic order):

- Bullying
- Gender
- Hostile Work Environment
- Mandatory Reporting
- Microaggression
- Quid pro quo
- Rape
- Retaliation
- Sexual Assault
- Stalking

Two parts of the Civil Rights Act of 1964 (as amended in 1972), Title VII and Title IV, are also included, though without the definitional breakdown applied to the above.

Discussion of the definitions may be supported by the following questions, as well as many more:

- How do definitions from different sources (i.e. from popular press to institutional) converge or diverge?
- Where do institutional definitions originate (URLs may help determine the source)? How might these differences of institutional unit origin influence definitions? How do these institutional definitions position different stakeholders: administrators, faculty, staff, and students?
- Are the definitions provided similar to or different from those of your current institution?

Defining Sexual Harassment

Sexual harassment is employed as an overarching term. It is useful to under-

stand the term and to also realize it demands sub-categories to be constructively applied.

Popular Press Understanding

Sexual harassment includes teasing, sexual advances, and unwelcome touching. It might involve jokes or taunting directed at an individual because of her gender. It can include promises of promotion or pay raises in exchange for sexual favors, although sexual harassment is not limited to interactions with the victim's employer or supervisor.

- 🌐 <https://www.thebalancecareers.com/sex-discrimination-vs-gender-discrimination-3515722>

Legal Resource Definition

A unique form of sex discrimination is sexual harassment. Women and men have the right to secure and perform their jobs free of unwanted demands for romantic or sexual relationships, or unwanted communications or behaviors of a sexual nature that interfere with their ability to work.

- 🌐 <https://employment.findlaw.com/employment-discrimination/sex-gender-discrimination-overview.html>

Higher Education Definitions

Community College of Rhode Island

Sexual harassment is coerced, unethical and/or unwanted sexual attention which includes verbal harassment and suggestions, rape, and sexual assault. Legally, sexual harassment is viewed in terms of the impact of the behavior, not the intent of the alleged perpetrator. If you have been harassed or touched in any way and you did not consent, this is considered harassment.

- Victims and harassers can be of any age, gender, or orientation, and can be of the same gender.
- If conduct is unwelcome or perceived as harassment, then it IS harassment.

- 🌐 https://www.ccri.edu/doss/deanstudents/gender_equity/harassment.html

Utah State University

Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term

or condition of an individual's employment or status as a student in a course, program or activity.

- Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting an individual.
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or of creating an intimidating, hostile or offensive environment for working or learning

🌐 <https://www.usu.edu/sexual-assault/definitions/index>

Gonzaga University

Harassment and discrimination against individuals in protected classes can take many forms. It can include verbal or physical conduct, name-calling, slurs, comments, rumors, jokes, innuendos, unwelcome compliments or touching, cartoons, pranks, graphic and written statements, communications via cell phones or the internet, or other conduct which may be physically or emotionally threatening, harmful or humiliating. Generally, physical and verbal conduct is considered harassment when it meets one or more of the following criteria:

- Submission to the undesirable conduct or communication is made, either explicitly or implicitly, a term or condition of one's employment or academic status, or
- Submission to or rejection of the conduct or communication by an individual is used as a factor in decisions affecting the individual's employment or education, or
- The conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creates an intimidating, hostile, or offensive employment or academic environment, and
- The conduct or communication would not have occurred but for the protected category of the individual(s) or group to whom it is directed or who are affected by it.

🌐 <https://www.gonzaga.edu/student-life/student-services/resolution-center/student-code-of-conduct/university-standards-of-conduct/harassment-discrimination-policy>

Defining the Ten Subcategories

Bullying

Bullying is not always sexual harassment. In their 2019 edited collection on bullying, Cristyn L. Elder and Bethany Davila maintain that bullying is an "endemic problem" (p. 9), and they go into significant detail to define bullying in different

institutional contexts, especially as bullying is related to writing program administrators. They explicitly note that their book does “not address matters of sexual harassment, which is distinct from, though often accompanied by, bullying behaviors” (p. 13). Because of this difference, definitions of bullying are important in considering whether actions are sexual harassment or not.

Popular Press Understanding

Bullying is an intentional behavior that hurts, harms, or humiliates a student, either physically or emotionally, and can happen while at school, in the community, or online. Those bullying often have more social or physical “power,” while those targeted have difficulty stopping the behavior. The behavior is typically repeated, though it can be a one-time incident.

 <https://www.pacer.org/bullying/resources/info-facts.asp>

Legal Resource Definition

Bullying is generally defined as an intentional act that causes harm to others, and may involve verbal harassment, verbal or non-verbal threats, physical assault, stalking, or other methods of coercion such as manipulation, blackmail, or extortion. It is aggressive behavior that intends to hurt, threaten or frighten another person. An imbalance of power between the aggressor and the victim is often involved. Bullying occurs in a variety of contexts, such as schools, workplaces, political or military settings, and others.

 <https://definitions.uslegal.com/b/bullying/>

Higher Education Definitions

Grand Rapids Community College

Bullying is systematic intentional behavior that may take many forms, including but not limited to, repeated unwanted physical, verbal, or written acts which are hostile or offensive, targeted at an individual or group and creates an intimidating and/or threatening environment which produces a risk of psychological and/or physical harm. Bullying may manifest as cyber stalking or cyber bullying as well as excluding behaviors such as ignoring or dismissing individuals or groups.

1. Hostile behaviors include, but are not limited to, inappropriate behaviors that are harmful or damaging to an individual and/or property. Behaviors that are intimidating, threatening, disruptive, humiliating, sarcastic, or vicious may also constitute hostile behavior.
2. Offensive behaviors may include, but are not limited to, inappropriate behaviors such as abusive language, derogatory remarks, insults, or epi-

thets. Other offensive behaviors may include the use of condescending, humiliating, or vulgar language, swearing, shouting or use of unsuitable language, use of obscene gestures, or mocking.

🌐 <https://www.grcc.edu/studentlifeandconduct/studentconduct/codeofconduct/generalconduct>

Tennessee State University

Bullying shall be defined as:

- Persistent singling out of one person.
- Repeatedly shouting or the raising of voice at an individual in public and/ or in private.
- Repeated and consistent public humiliation or reprimands in any form.
- Repeated criticism on matters unrelated or minimally related to the person's job performance or description.
- Repeatedly accusing someone of errors which are not documented.
- Spreading rumors or negative gossip about individuals.
- Encouraging others to disregard a manager's instructions.
- Manipulating the ability of someone to do their work (e.g., overloading, under-loading of work, withholding information, assigning meaningless tasks, knowingly setting deadlines that cannot be met, deliberately giving ambiguous instructions or supplying incorrect information) and encouraging others to collectively participate in these behaviors.
- Assigning menial or demeaning tasks, not in keeping with the normal responsibilities of the job as outlined in the job description.
- Refusing reasonable requests for leave without legitimate work-related justification.

It is important to recognize that bullying is distinguishable from supervisory activities in that bullying is a habitual pattern of intentional, socially damaging behavior designed to negatively impact a person's career or reputation. Behaviors that are not workplace bullying includes but are not limited to:

- Occasional conflict or disagreement.
- Being a demanding supervisor.
- Withholding resources for a legitimate reason.
- Holding staff accountable for clearly communicated job expectations.
- Consistent, appropriate and documented disciplinary action.

🌐 <http://www.tnstate.edu/hr/documents/updatedpoliciesandprocedures/Code%20of%20Ethical%20Conduct.pdf>


Bennett College

Bullying behavior, defined as: the systematic and chronic infliction of physical hurt or psychological distress by teasing, social exclusion, threat, intimidation, stalking, physical violence, theft, harassment, or destruction of property.

Bullying may be intentional or unintentional. However, it must be noted that where an allegation of bullying is made, the intention of the alleged bully is irrelevant, and will not be given consideration when appropriate disciplinary action is needed.

Examples of bullying:

- Verbal Bullying: slandering, ridiculing or maligning a person or his/her family; persistent name calling which is hurtful, insulting or humiliating; using a person as the butt of jokes; remarks that would be viewed by others in the community as abusive and offensive; persistently interrupting another person or otherwise preventing another person's legitimate attempts to speak; use of nicknames after being warned that the nickname is considered by the victim to be offensive; constant criticism on matters unrelated to a person's job performance or description or on matters that cannot be documented;
- Physical Bullying: pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; damage to a person's work area or property
- Gesture Bullying: non-verbal threatening gestures, such as, but not limited to, the following: approaching another person with fists clinched or with one or more other fighting gestures which, could reasonably be interpreted as threatening; brandishing weapon; making gestures that would reasonably be interpreted as amorous or sexual in nature.
- Social Bullying (which may include Cyber-bullying): engaging in verbal bullying via mail, email, text message, phone, voicemail, or social media; deliberately interfering with mail, email, text messages, phone, voicemail or other communication; spreading malicious rumors or gossip about another person.

 http://www.bennett.edu/wp-content/uploads/2017/02/Bennett_College_Anti-Bullying_Policy_1-17-17.pdf

Gender

The concept of gender and use of the term is common in higher education websites, but a search of wide range of college and university websites provided no definitions of "gender." Because it is an important term in discussions of sexual harassment, however, two definitions of gender are provided from outside the academic world.


According to the World Health Organization, “Gender refers to the roles, behaviours [sic], activities, attributes and opportunities that any society considers appropriate for girls and boys, and women and men. Gender interacts with, but is different from, the binary categories of biological sex” (<https://www.who.int/health-topics/gender>).

Gender Spectrum provides a more nuanced definition:

A person’s gender is the complex interrelationship between three dimensions:

- Body: our body, our experience of our own body, how society genders bodies, and how others interact with us based on our body.
- Identity: the name we use to convey our gender based on our deeply held, internal sense of self. Identities typically fall into binary (e.g. man, woman), Non-binary (e.g. Genderqueer, genderfluid) and ungendered (e.g. Agender, genderless) categories; the meaning associated with a particular identity can vary among individuals using the same term. A person’s Gender identity can correspond to or differ from the sex they were assigned at birth.
- Social: how we present our gender in the world and how individuals, society, culture, and community perceive, interact with, and try to shape our gender. Social gender includes gender roles and expectations and how society uses those to try to enforce conformity to current gender norms.

Each of these dimensions can vary greatly across a range of possibilities and is distinct from, but interrelated with the others. A person’s comfort in their gender is related to the degree to which these three dimensions feel in harmony.

 <https://www.genderspectrum.org/quick-links/understanding-gender/>

Hostile Work Environment


Not unlike bullying, a hostile work environment may not be due to sexual harassment alone. Hostile work environment is included here because it can accompany sexual harassment.

Popular Press Understanding

The legal requirements for a hostile work environment include these.

- The actions or behavior must discriminate against a protected classification such as age, religion, disability, or race.

- The behavior or communication must be pervasive, lasting over time, and not limited to an off-color remark or two that a coworker found annoying. These incidents should be reported to Human Resources for needed intervention.
- The problem becomes significant and pervasive if it is all around a worker, continues over time, and is not investigated and addressed effectively enough by the organization to make the behavior stop.
- The hostile behavior, actions, or communication must be severe. Not only is it pervasive over time, but the hostility must seriously disrupt the employee's work. The second form of severity occurs if the hostile work environment interferes with an employee's career progress; for example, if the employee failed to receive a promotion or a job rotation as a result of the hostile behavior.
- It is reasonable to assume that the employer knew about the actions or behavior and did not sufficiently intervene. Consequently, the employer can be liable for the creation of a hostile work environment.

 <https://www.thebalancecareers.com/what-makes-a-work-environment-hostile-1919363>

Legal Resource Definition

The phrase hostile work environment is a civil law term that refers to the behavior of an individual in a workplace that creates an environment that makes work difficult or uncomfortable for another person. This includes behavior that may leave another employee feeling afraid or violated. Such offensive behavior happens in many forms, including sexual harassment.

When an individual in the workplace feels scared, intimidated, or uncomfortable due to abuse or intimidation by a coworker, it creates what is called a hostile work environment. While any number of behaviors might create a hostile work environment, any conduct or actions that create an environment in which an employee dreads going to work is generally seen to create such a setting.

A hostile work environment is sometimes referred to as an “offensive work environment,” or an “abusive work environment.” The individual causing a hostile work environment may be an employee, a supervisor, an owner, or even an independent contractor. There are federal and state laws in place to protect employees from being subjected to workplace hostility.

 <https://legaldictionary.net/hostile-work-environment/>

Higher Education Definitions

Norfolk State University

A “hostile environment” exists when the conduct is sufficiently severe, persistent,

or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from NSU's education or employment programs and/or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, NSU will consider the totality of known circumstances, including, but not limited to:


- The frequency, nature and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the Complainant's mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or NSU programs or activities; and
- Whether the conduct implicates concerns related to academic freedom or protected speech.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of Sexual Assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.

 <https://www.nsu.edu/policy/bov-05.aspx>

Missouri State University

A "hostile work environment" is created when sexual harassment is sufficiently severe or pervasive as to disrupt a person's ability to participate in educational programs or the workplace.

 https://www.missouristate.edu/policy/Op1_02_8_Harassment.htm

Utica College

Hostile environment sexual harassment involves a situation where an atmosphere or climate is created on the campus that makes it difficult, if not impossible, for a student to learn or an employee to work because the atmosphere is perceived by the employee or student to be intimidating, offensive, and hostile. The fact that a person was personally offended by a statement or incident does not alone constitute a violation of this policy. A determination as to whether a hostile environment has been created is based on a "reasonable person" standard and takes into

account the totality of the circumstances, such as the severity of the particular incident, the context in which it occurred, the relationship of the individuals involved, whether the conduct was an isolated incident or part of a broader pattern or course of offensive conduct, whether the conduct was verbal or physical, and whether it was threatening or merely annoying.

The College reserves the right to discipline offensive conduct that is inconsistent with community standards even if it does not rise to the level of a hostile environment as defined by applicable law. Further, the College encourages individuals to report incidents that concern them even if the incidents are not particularly egregious, as early reporting assists the College in addressing and even correcting situations before they become so severe or pervasive as to create a hostile environment.

 <https://www.utica.edu/policies/policies.cfm?id=145>

Mandatory Reporting

Mandatory reporting requirements are included in Title IV, but they have created considerable controversy. Aspects of that controversy were outlined in a 2017 *Academe* article by Sine Anahita. Recounting an experience that many teachers have encountered, Anahita commented,

Okay, you might say, forewarn students that faculty are mandatory reporters and that they should not confide in us if they do not want to be reported. But it's not that simple. The student's e-mail is already in my inbox. The written assignment is already submitted online. The student has already confided to me in my office. It's too late. I already know. And I must report the student or be fired." (<https://www.aaup.org/article/trouble-title-ix#.XTiFEf17kb1>, Para. 3)

Despite the controversy, a thorough review of institutional websites indicated that all have some mandatory reporting policy.

Popular Press Understanding

In many parts of the western world, **mandated reporters** are people who have regular contact with vulnerable people and are therefore legally required to ensure a report is made when abuse is observed or suspected. Specific details vary across jurisdictions—the abuse that must be reported may include neglect, or financial, physical, sexual, or other types of abuse. Mandated reporters may include paid or unpaid people who have assumed full or intermittent responsibility for the care of a child, dependent adult, or elder.

 https://en.wikipedia.org/wiki/Mandated_reporter

Legal Resource Definition

Title IX of the Higher Education Amendments of 1972 (Title IX) specifies that any educational institution receiving federal funding must prevent sex-based discrimination and respond to acts of sexual discrimination when they do occur [4]. In April 2011, the Office of Civil Rights released a Dear Colleague Letter, which provided specific guidance on schools' duties to ensure that sexual assault and harassment are properly addressed in educational settings [5]. In particular, this letter explained that universities are obligated to take action in response to sexual violence if any university employees who are not confidential employees (e.g., student health providers, victim services advocates) know of the incident [6]. Specifically, university employees are required to report incidents of sexual violence involving students to the Title IX coordinator. It should be noted that prior to the April 2011 Dear Colleague Letter, Title IX requirements were primarily interpreted through case law [4].

🌐 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6262634/#B4-behavioral-ci-08-00106>

Higher Education Definitions

Moberly Area Community College

Responsible Employees (Mandated Reporters)

All MACC employees are considered responsible employees (i.e., mandated reporters), and as such are expected to promptly contact the Title IX Coordinator when they become aware of an incident of sexual misconduct, regardless of whether the recipient is an employee, a student, a volunteer, or a visitor of the College.

When an individual tells a responsible employee about an incident of sexual misconduct, the individual has the right to expect the College to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the College's response to the report. These people will include the Title IX Coordinator and may include the College's Behavioral Intervention Team, administrative council, and/or the Director of Security and Residential Life. A responsible employee should not share information with law enforcement without the complainant's consent or unless the complainant has also reported the incident to law enforcement.

Before an individual reveals any information about sexual misconduct to a responsible employee, the employee should ensure that the individual understands the employee's reporting obligations, and, if the individual wants to maintain confidentiality, direct the individual to confidential resources. If the individual wants

to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the individual that the College will consider the request but cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the individual's request for confidentiality. Responsible employees will not pressure an individual to request confidentiality but will honor and support the individual's wishes, including the wish that the College fully investigate an incident. Responsible employees will not pressure an individual to make a full report if the individual is not ready to.

Should the Title IX Coordinator be given information by a third party or an anonymous person, the details will be discussed with the alleged victim if that name is given. The alleged victim will make the determination if he or she wants to provide details regarding the incident. Even if the individual does not choose to participate in the reporting process, the information given by the third party will be documented. Under no circumstances should anyone involved in the reporting of a crime be a victim of retaliation. MACC prohibits retaliation and will take strong responsive action if retaliation occurs.

Weighing Requests for Confidentiality

If an individual discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the College must weigh that request against the College's obligation to provide a safe, non-discriminatory environment for all students, employees, and visitors. If the College honors the request for confidentiality, a complainant must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the respondent(s), if appropriate, may be limited. Although rare, there are times when the College may not be able to honor an individual's request in order to provide a safe, non-discriminatory environment for all students, employees, and visitors.

The Director of Security and Residential Life will evaluate requests for confidentiality. When weighing a complainant's request for confidentiality or that no investigation or discipline be pursued, the Director of Security and Residential Life will consider a range of factors, including the safety of the College community, the age of the complainant(s) and respondent(s), and the seriousness of the allegations. If the College determines that it cannot maintain an individual's confidentiality, the College will inform the complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College's response. The College will remain ever mindful of the complainant's well-being and will take ongoing steps to protect the individual from retaliation or harm and work with the complainant to create a safety plan. Retaliation against the complainant, whether by students, employees, or other College representatives will not be tolerated. If the College determines

that it can respect a complainant's request for confidentiality, the College will also take immediate action as necessary to protect and assist the complainant (e.g., rearrange living assignments, work schedules, and/or class schedules if at all possible, etc.).

The information reported to the Title IX Coordinator may also be used (without the victim's name) to issue timely warnings, which are required by the Clery Act. If applicable, the incident must be reported in the Annual Security Report (anonymously, as a statistic), which is also mandated by the Clery Act.

MACC encourages victims of sexual misconduct to talk about their experience so they get the support they need and so officials can respond appropriately. Should an individual decide not to pursue the incident by criminal or institutional processes, an individual can and should contact a confidential source to seek guidance.

Professional licensed counselors and pastoral counselors as well as non-professional counselors and advocates who provide mental health counseling or services to members of the school community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX Coordinator without a victim's permission. MACC does not offer on-site professional or pastoral counseling services; however, these confidential services are available off-site through the College's Employee/Student Assistance Program or through community agencies, such as those identified in Section V of this policy.

An individual who speaks to a professional counselor or advocate must understand that, if the individual wants to maintain confidentiality, the College will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the respondent. An individual who at first requests confidentiality may later decide to file a complaint with the College or report the incident to local law enforcement and thus have the incident fully investigated.
<https://www.macc.edu/sexual-misconduct-policy#iv-reporting-and-confidentiality>

Columbia University

Prohibited Conduct That Involves Students

When prohibited conduct involves students, there are additional reporting obligations. The following employees have a duty to report any instance or allegation of prohibited conduct involving a student that is disclosed to, observed, or otherwise known by him or her whether the student is a Complainant or a Respondent:


- Faculty, Officers of Administration, Research, the Libraries and the Coaching Staff
- Staff who work directly with students, including teaching assistants, ad-

vising and residential program staff (including residence assistants and student affairs staff). Prohibited conduct should be reported immediately to the appropriate individual identified in the chart under Appendix A.

Prohibited Conduct by Employees or Third Parties That Does Not Involve Students

The University asks all employees to report any prohibited conduct involving employees or third parties to EOAA and/or the employee's designated human resources representative. The University requires management and supervisory personnel to report any instance or allegation of prohibited conduct by an employee or third party that is disclosed to, observed, or otherwise known by him or her to EOAA and/or his or her designated human resources representative, who will report to immediately and coordinate with EOAA regarding the appropriate University response.

Failure of a manager or supervisor to report an allegation of prohibited conduct disclosed to, observed or otherwise known by him or her will constitute a violation of this Policy and may result in disciplinary action, even in situations where the University determines that the underlying conduct does not constitute a policy violation.

 https://eoaa.columbia.edu/sites/default/files/content/docs/EOAA_Policy_10_03_2018.pdf

Texas Women's University

Texas Woman's University is committed to eliminating sexual misconduct and to providing support to any individual who has been a target of sexual misconduct. Because of this commitment and as called for by Title IX of the Education Amendments of 1972, all faculty members and graduate assistants must report any instance of sexual misconduct that you disclose in the course of discussion or an assignment. Title IX places no time limit on our need to report a violation. Therefore, if you disclose experiences such as sexual harassment, sexual assault, stalking, or relationship violence which occurred during your studies at TWU, then we must report this to the University's Title IX Coordinator to determine whether further action is necessary.

 <https://servicecenter.twu.edu/TDClient/KB/ArticleDet?ID=71188>

Microaggressions

No university or college was found to have an explicit or specific policy regarding "microaggressions." Many colleges and universities have discussion links, workshops, forums, and study guides about microaggressions and how to mitigate and

manage them. In fact, at Harvard in 2018, reports of microaggressions in seven classes in the School of Public Health led to those courses being “flagged for special review and attention” (Vrotsos, para. 5).

Popular Press Understanding

Behaviors or statements that do not necessarily reflect malicious intent but which nevertheless can inflict insult or injury.

- 🌐 <https://www.theatlantic.com/politics/archive/2015/09/microaggressions-matter/406090/>

Legal Resource Definition

Due to their subtle nature, microaggressions are often challenging to address, but they can strain working relationships. Left unaddressed, microaggressions can over time lead to workplace conflict and eventually affect operations. Additionally, severe or pervasive microaggressions based on protected Equal Employment Opportunity categories may rise to the level of harassment under certain circumstances.

- 🌐 <https://2009-2017.state.gov/documents/organization/249252.pdf>

Quid Pro Quo

Latin for “something for something,” quid pro quo is perhaps one of the best-known types of sexual harassment. Being well-known, however, is no protection against its insidious effects.

Popular Press Understanding

“It’s the kind that is seen in pop culture, splashed across television screens and nestled into iconic cinematic scenes.” This site generally defines quid pro quo as a superior “taking advantage of their power over an individual and demanding sexual favors for job benefit.

- 🌐 <https://fairygodboss.com/career-topics/quid-pro-quo-sexual-harassment>

Legal Resource Definition

Quid pro quo harassment occurs in the workplace when a manager or other authority figure offers or merely hints that he or she will give the employee something (a raise or a promotion) in return for that employee’s satisfaction of a sexual demand. This also occurs when a manager or other authority figure says he or she will not fire or reprimand an employee in exchange for some type of sexual favor. A job applicant also may be the subject of this kind of harassment if the hiring

decision was based on the acceptance or rejection of sexual advances.

- ④ <http://employment.findlaw.com/employment-discrimination/what-is-quid-pro-quo-harassment.html>

Higher Education Definitions

Spelman College

Quid pro quo Sexual Harassment occurs when a person having power or authority over another makes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature and makes submission to such sexual conduct either explicitly or implicitly a term or condition of rating or evaluating an individual's educational [or employment] progress, development, or performance. This includes making submission to such conduct a condition for access to receiving the benefits of any educational [or employment] program.

Examples of quid pro quo harassment include: an attempt to coerce an unwilling person into a sexual relationship; repeatedly subjecting a person to egregious, unwelcome sexual attention; punishing a refusal to comply with a sexual based request; conditioning a benefit on submitting to sexual advances; sexual violence; intimate partner violence; stalking; gender-based bullying.

- ④ <https://www.spelman.edu/docs/title-ix/sexual-misconduct-policy.pdf>

Harvard University

Sexual harassment is unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic, or physical conduct of a sexual nature, when: (1) submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (quid pro quo). . . . Quid pro quo sexual harassment can occur whether a person resists and suffers the threatened harm, or the person submits and avoids the threatened harm. Both situations could constitute discrimination on the basis of sex.

- ④ <https://www.hupd.harvard.edu/sexual-and-gender-based-harassment-policy>

Brigham Young University

Quid pro quo sexual harassment—when submission to or rejection of the unwelcome sexual conduct is used as a basis for employment decisions affecting an employee, or when a teacher or other employee conditions an educational decision or benefit on a student's submission to unwelcome sexual conduct.

To avoid the possibility or appearance of quid pro quo sexual harassment, employees and students should avoid dating, romantic, or amorous relationships where a power differential exists.

🌐 <https://policy.byu.edu/view/index.php?p=155>

Rape

Whether or not to include rape in these definitions was carefully considered by the authors. It seemed obvious that rape was sexual harassment, but definitions of rape are not as clear and uniform as might be expected. Ultimately, the variety of definitions discovered argued convincingly for the term's inclusion.

Popular Press Understanding

What is rape? Rape is a form of sexual assault, but not all sexual assault is rape. The term rape is often used as a legal definition to specifically include sexual penetration without consent.

🌐 <https://www.rainn.org/articles/sexual-assault>

Legal Resource Definition

United States Department of Justice

The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

🌐 <https://www.justice.gov/archives/opa/blog/updated-definition-rape>

Higher Education Definitions

Langston University

Rape is nonconsensual intercourse that involves the threat of force, violence, immediate and unlawful bodily injury, or threat of future retaliation and duress.
<http://www.langston.edu/title-ix/defining-terms>

University of Pennsylvania

Rape is defined as sexual assault involving an act of penetration and includes acquaintance rape (assailant and victim know each other).

🌐 <https://almanac.upenn.edu/archive/volumes/v60/n35/sexualviolencepolicy.html>

Grand Valley State University

Rape is sexual penetration, however slight, of another person without affirmative consent. Penetration can be of the mouth, vagina, or anus, and can be with a penis, tongue, finger, or foreign object.

- 🌐 <https://www.gvsu.edu/policies/policy.htm?policyId=145A3666-BBoD-3BCo-EC121EFDF110009B&search=sexual>

College of the Ozarks

Rape or sexual assault: sexual intercourse (anal, oral, or vaginal) by a man or woman upon a man or woman without consent.

- 🌐 <http://images.cofo.edu/cofo/TitleIXPolicyProcedures1114.pdf>

Retaliation

Fear of retaliation is one of the most common reasons sexual harassment is not reported. For that reason, everyone in higher education should know the policies in place to prevent the additional trauma that retaliation can bring.

Popular Press Understanding

Retaliation is an act of revenge or reprisal.

- 🌐 <https://www.thebalancecareers.com/retaliation-is-illegal-1917921>

Legal Resource Definition

Retaliation is the most frequently alleged basis of discrimination in the federal sector and the most common discrimination finding in federal sector cases. Common retaliation against an employee occurs as a result to then employee “resisting sexual advances, or intervening to protect others.”

- 🌐 <https://www.eeoc.gov/laws/types/retaliation.cfm>

*Higher Education Definitions**Hagerstown Community College*

Retaliation means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or College policy relating to Sexual Assault/Misconduct, or because an individual has made a report, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to Sexual Assault/Misconduct.

Retaliation includes retaliatory harassment. (par. 12)

- 🌐 <http://www.hagerstowncc.edu/student-affairs/sexual-misconduct-procedures>

University of Montana

Retaliation is action taken by an accused individual or an action taken by a third party against any person because that person has opposed any practices forbidden under this policy or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, or sexual misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.

- 🌐 <http://www.umt.edu/policies/browse/personnel/discrimination-harassment-sexual-misconduct-stalking-and-retaliation>

Seton Hall University

Retaliation is an act of intimidation, harassment, or reprisal against an individual for initiating a good faith complaint or participating in any proceeding under this policy or for otherwise exercising his/her rights under this policy or the law.

- 🌐 <http://www.shu.edu/policies/policy-against-sexual-misconduct-harassment-and-retaliation.cfm>

Sexual Assault

The term *sexual assault* is an unhelpful term if precision in discussion is a goal. The term is a capacious canopy that is used to cover issues that should be more carefully delineated.

Popular Press Understanding

Sexual assault is basically an umbrella term that includes sexual activities such as rape, fondling, and attempted rape.

- 🌐 <https://www.self.com/story/sexual-assault-definition>

Legal Resource Definition

The United States Department of Justice defines sexual assault as “any noncon-

sensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.”

 <https://www.justice.gov/ovw/sexual-assault>

Higher Education Definitions

Howard University

Sexual assault is sexual contact without consent. No one is immune to sexual assault, no one deserves it, and no one asks for it. Sexual assault may include unwanted sexual touching, rape, attempted rape, or otherwise forcing a person to perform sexual acts.


 <https://studentaffairs.howard.edu/addressing-sexual-assault>

New Mexico State University

Sexual assault can include many other definitions, but as a whole, can be defined as unwanted sexual contact that stops short of rape or attempted rape. This includes sexual touching and fondling.


Forms of sexual assault can include the following:

- Sexual Contact: Any unwanted touching to the intimate parts underneath the clothes of someone who is eighteen years of age, or intentionally causing this person to touch one's intimate parts.
- Sexual Coercion: Forcing someone to engage in something they do not want to do.
- Attempted Rape: An attempt to complete criminal sexual penetration the victim.
- Rape or Criminal Sexual Penetration: “The unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio, or anal intercourse, or the causing of penetration to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission.

 <https://wave.nmsu.edu/violence/sexual-assault/>

Loyola Marymount University

Sexual assault includes rape, statutory rape, rape in concert, sodomy, oral copulation and penetration of the vagina or anal opening by any foreign object.

 <https://studentaffairs.lmu.edu/wellness/lmucare/aboutlmucare/statefederal-laws/>

Stalking

Before the term was used as a type of sexual harassment, “to stalk” meant to creep up stealthily on prey. It was often used to describe how a cat follows a bird. Perhaps its contemporary meaning is not so different.

Popular Press Understanding

To follow and/or spy on someone you have feelings for. Those feelings need not be of a kind and loving nature. People who stalk are usually obsessed with the stalkee.

🌐 <https://www.urbandictionary.com/define.php?term=Stalking>

Legal Resource Definition

The crime of stalking can be simply described as the unwanted pursuit of another person. Examples of this type of behavior includes following a person, appearing at a person’s home or place of business, making harassing phone calls, leaving written messages or objects, or vandalizing a person’s property.

🌐 <https://criminal.findlaw.com/criminal-charges/stalking.html>

Higher Education Definitions

Danville Area Community College

Stalking is committed when a person (a) engages in a course of conduct directed at a specific person, and the conduct would cause that person to fear for his or her safety or the safety of another, or suffer other emotional distress; (b) follows/ observes a person on at least two separate occasions and transmits a threat, or causes fear of bodily harm, sexual assault, confinement, or restraint of that person or a family member; or (c) has previously been convicted of stalking and on one occasion follows/observes that same person and transmits a threat of bodily harm, sexual assault, confinement, or restraint to that person or a family member. Stalking may include spying on the target; sending unwanted presents; spreading rumors; damaging the target’s property or defaming the target’s character; and/or unwanted calls, emails, text messages and instant messages.

🌐 <https://www.dacc.edu/title-ix/definitions>

Brown University

Stalking occurs when a person engages in a course of conduct toward another person under circumstances that would cause a person to fear bodily injury or experience substantial emotional distress.


Course of conduct means two or more instances including but not limited to unwelcome acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

 <https://www.brown.edu/about/administration/title-ix/policy>

Barnard College

Stalking means a course of conduct directed at a specific person that would cause a reasonable person to feel fear for her, his or others' safety or to suffer substantial emotional distress. Stalking involves repeated and continued behaviors that may include: pursuing or following; non-consensual (unwanted) communication or contact - including face-to-face, telephone calls, voice messages, electronic messages, text messages, unwanted gifts or tokens; trespassing; and surveillance or other types of observation.

 <https://barnard.edu/doc/titleix/definitions>

Title VII

Title VII prohibits employment discrimination based on race, color, religion, sex and national origin. The Civil Rights Act of 1991 (Pub. L. 102-166) (CRA) and the Lily Ledbetter Fair Pay Act of 2009 (Pub. L. 111-2) amend several sections of Title VII. In addition, section 102 of the CRA . . . amends the Revised Statutes by adding a new section following section 1977 (42 U.S.C. 1981), to provide for the recovery of compensatory and punitive damages in cases of intentional violations of Title VII, the Americans with Disabilities Act of 1990, and section 501 of the Rehabilitation Act of 1973.

 <https://www.eeoc.gov/laws/statutes/titlevii.cfm>

Title VII of the Civil Rights Act of 1964, as amended, protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

 https://www.eeoc.gov/employers/upload/poster_screen_reader_optimized.pdf

Title IX

The U.S. Department of Education's Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Scope of Title IX

Title IX applies to institutions that receive federal financial assistance from ED, including state and local educational agencies. These agencies include approximately 16,500 local school districts, 7,000 postsecondary institutions, as well as charter schools, for-profit schools, libraries, and museums. Also included are vocational rehabilitation agencies and education agencies of 50 states, the District of Columbia, and territories and possessions of the United States.

Educational programs and activities that receive ED funds must operate in a nondiscriminatory manner. Some key issue areas in which recipients have Title IX obligations are: recruitment, admissions, and counseling; financial assistance; athletics; sex-based harassment; treatment of pregnant and parenting students; discipline; single-sex education; and employment. Also, a recipient may not retaliate against any person for opposing an unlawful educational practice or policy, or made charges, testified or participated in any complaint action under Title IX. For a recipient to retaliate in any way is considered a violation of Title IX. The ED Title IX regulations (Volume 34, Code of Federal Regulations, Part 106) provide additional information about the forms of discrimination prohibited by Title IX.

🌐 https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html?exp=o