



The State University  
of New York

# **Title IX, Clery Act & Sexual Harassment Prevention Training**

**SUNY UPSTATE MEDICAL UNIVERSITY**

# What We Will Cover

1. Definitions and examples
  - ❖ Definition of Title IX
  - ❖ Types of Sexual Harassment
  - ❖ Sex Stereotyping
  - ❖ Retaliation
2. Recognizing harassment and what comes next
3. Available resources, both internal and external

“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.”

-Title IX of the Education Amendments of 1972



- SUNY and its campuses prohibit sexual harassment and unequal treatment on the basis of sex or gender.
- SUNY's Policy 6501 provides details and important information and sets a baseline for individual campus policies prohibiting such unlawful conduct. Please visit the page to learn more:
- <http://bit.ly/SUNYDCP>



# Sex Discrimination

Sex discrimination includes all forms of sexual harassment, including verbal sexual harassment and sexual violence by employees, students, or third parties against employees, students, or third parties.

Anyone can be a Reporting Individual or a Respondent. Discrimination can impact **all genders** and **employees at all ranks** of the institution.



**Sexual  
Discrimination**



Sexual harassment



Sexual violence



Sexual assault

Rape

Sexual  
coercion

**Sexual harassment** is a form of **workplace discrimination** and **employee misconduct**, as well as a form of discrimination in the academic setting

Sexual harassment is unlawful, and all employees and students have a **legal right** to a workplace and a campus free from sexual harassment

- Authority: Federal and State Law, including the New York Human Rights Law, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, prohibit unequal treatment on the basis of sex/gender.

Employees and students can enforce this right by filing a complaint internally with the University, or with a government agency, or in a court under federal or state anti-discrimination laws

# What Is Sexual Harassment?

It includes unwelcome conduct, either of a sexual nature or which is directed at an individual because of that individual's sex when:

- ❖ Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or creating an intimidating, hostile, or offensive work or learning environment
- ❖ Such conduct is made either explicitly or implicitly a term or condition of employment or academic benefit
- ❖ Submission to or rejection of such conduct is used as the basis for employment or academic decisions

*Hostile Environment*

*Quid Pro Quo*



# Where can Sexual Harassment Occur?

Whenever and wherever employees fulfill their work responsibilities:

- Employer-sponsored events [whether on- or off-site]; Conferences; Office Parties
- POSSIBLY in a non-work scenario during non-work hours [Fact-specific]



# Covered Clery Act Crimes

- Criminal Homicide, including Murder, Non-negligent Manslaughter, and Manslaughter by Negligence
- Sexual Assault, including Rape, Fondling, Incest and Statutory Rape
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson

# Covered Clery Act Crimes

- Hate Crimes
  - Any of the above-mentioned offenses, and any incidents of Larceny-Theft, Simple Assault, Intimidation, or Destruction, Damage, or Vandalism of Property
  - That were motivated by bias based on race, religion, sexual orientation, gender, gender identity, ethnicity, national origin, or disability

# Covered Clery Act Crimes

New Reportable Incidents:

The term “**dating violence**” means violence committed by a person—

A.who is or has been in a social relationship of a romantic or intimate nature with the victim; and

B.where the existence of such a relationship shall be determined based on a consideration of the following factors:

- i. The length of the relationship
- ii. The type of relationship
- iii. The frequency of interaction between the persons involved in the relationship

## Domestic Violence

A felony or misdemeanor crime of violence committed –

- By a current or former spouse or intimate partner of the victim;
- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

## Stalking

The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- A. fear for their safety or the safety of others; or
- B. suffer substantial emotional distress.

# Covered Clery Act Crimes

## Geography

CAMPUS CUSTOMIZE MAP

## As a practical matter:

While colleges need only report crimes that occur in the four specific geographic areas, the best practice is to forward the report of any such crime to UPD, Title IX, or Student Affairs, and let them determine what course of action is appropriate.

## Geographic Locations

- On campus
- Residence Halls
- Non Campus
- Public Property

# Rights of Reporting Individuals

- “You have the right to make a report to university police or campus security, local law enforcement, and/or state police or choose not to report;
- to report the incident to your institution;
- to be protected by the institution from retaliation for reporting an incident; and,
- to receive assistance and resources from your institution.”

*NY Education Law, Section 6444 (2)*

**See Upstate's** <http://www.upstate.edu/diversityinclusion/pdf/ODI-complaint-investigation-procedure.pdf>

# Hostile Environment

Sexual or discriminatory displays or publications anywhere in the workplace. For instance:

- ❖ Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic
- ❖ Sexual displays on workplace computers or cell phones and sharing such displays in the workplace or classroom
- ❖ Sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience

# Hostile Environment

- ❖ Hostile actions taken against an individual because of that individual's sex. This can include:
  - Rape, sexual battery, molestation, or attempts at these assaults
  - Physical acts of a sexual nature, such as touching, pinching, patting, grabbing, kissing, hugging, brushing against or poking another person's body
  - Interfering with, destroying or damaging a person's workstation, tools, or equipment, or otherwise interfering with the individual's ability to perform the job

# Hostile Environment

- ❖ Hostile actions taken against an individual because of that individual's sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender.

# Quid Pro Quo

- ❖ When a person in authority trades, or tries to trade, job benefits or a favorable grade or academic opportunity for sexual favors or a sexual relationship
- ❖ Can occur when someone has the ability to grant or withhold job benefits
- ❖ Includes offering better conditions in exchange for sex, or threatening a denial of opportunity if sex is refused
- ❖ Includes unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning a target's job benefits/detriments, or an educational benefit/detriment
  - Subtle or obvious pressure for unwelcome sexual activities

# Sex Stereotyping *is* Sexual Harassment

- ❖ Harassing a person because that person may not conform to other people's ideas or perceptions about how individuals of a certain sex should act or look
- ❖ Harassment because someone is performing a job that is usually or was previously performed mostly by persons of a different gender **is gender discrimination**

- ❖ Any harassment or discrimination based on a protected characteristic is prohibited in the workplace and may lead to disciplinary action against the perpetrator
  - ❖ Protected characteristics: age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity, and criminal history

## **What must be reported?**

- Identities of reporting individual, accused person, and any known witnesses to the incident(s)
- Date, time, and location of the incident(s)
- Any factual allegations known about the incident(s)

# Confidentiality vs. Privacy

- Only UUP Members with a legal privilege and who maintain that privilege in their specific role can maintain true “confidentiality”
- All other Members may offer “privacy,” but may not promise confidentiality to reporting individuals
- When communicating with a reporting individual, UUP Members who ordinarily have a legal privilege (e.g., attorney-client) may be unable to maintain the privilege when acting in their official university role

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# The Supervisor's Responsibility

- Supervisors and managers are held to a higher standard
  - Required to report harassment reported to them, which they observe, or which they reasonably should have known about
  - Expected to model appropriate behavior
  - Subject to discipline for failing to report suspected harassment, or otherwise knowingly allowing sexual harassment to continue
  - Subject to discipline for engaging in retaliation



The State University of New York

# SAVR Resource Site

## Sexual Assault & Violence Response (SAVR) Resources

SUNY takes reports of sexual assault, domestic violence, dating violence and stalking seriously. If you are a member of a SUNY community and have experienced any of the above, this Sexual Assault & Violence Response (SUNY SAVR) Resources Website provides you with information you can use to seek resources and support, and to report the crime to law enforcement and the campus.

- Choose a language - ▾

SUNY students and employees have the right to make a report to University Police/Campus Security, local law enforcement, and/or the State Police or choose not to report; to report the incident to your college; to be protected by the college from retaliation for reporting an incident; and to receive assistance and resources from your college.

EXIT SITE

To leave site click above, or press <Esc> key

Resources by Campus: ▾

- OR -

Resource Search by Zip Code or Map

- OR -

View NYS Resources

RESET PAGE

SUNY's policy is that response to sexual violence and related crimes is driven by the reporting victim/survivor. What that means is that in line with Federal and New York State law, while the University encourages you to use all of the response, support and reporting (including criminal reporting) resources offered here, the choice of what resources to use and when is for the victim and survivor.

<http://www.suny.edu/violence-response/>

 [response.suny.edu/](https://response.suny.edu/)



SAVR includes contact information for each campus (where available):

- Human Resources
- Title IX
- University Police/Public Safety
- LGBTQI+ Specific Resources
- Disability Services
- Counseling
- Anonymous Reporting
- Outside local and national resources, and
- Campus specific resource page



# You Can Also Report To

Equal Employment Opportunity Commission (EEOC)

<https://www.eeoc.gov//>

Division of Human Rights (DHR)

<https://dhr.ny.gov/>

Department of Education Office for Civil Rights (OCR)

<https://www2.ed.gov/about/office/list/ocr/index.html>

More information on reporting is available at

<http://bit.ly/SUNYDCP>

- Definition: *Any adverse action to alter an employee's terms and conditions of employment because that individual engaged in protected activities.*
- Any employee engaged in protected activity is protected from being retaliated against. Retaliation is prohibited against any participant in the reporting process.
- Failure to properly report a covered incident against someone else may result in discipline

- **Protected activities** include:
  - Making a complaint about harassment or suspected harassment
  - Providing information during an investigation
  - Testifying in connection with a harassment complaint
- **Adverse actions** include: Discharge, demotion, discipline, sudden change in work schedule or work location
- **Note:** Not every negative action is retaliation. In order to constitute retaliation, the negative action must be linked to a protected activity.

# Questions?

Please feel free to direct any further questions to:

The Office of Diversity and Inclusion

<http://www.upstate.edu/diversityinclusion/>

Human Resources

<http://www.upstate.edu/hr/intra/index.php>

Employee Relations Office

[http://www.upstate.edu/hr/intra/staff\\_resources/issues/resolving\\_issues.php](http://www.upstate.edu/hr/intra/staff_resources/issues/resolving_issues.php)