

**THE EDUCATOR'S RESPONSIBILITIES
REGARDING DISCRIMINATORY HARASSMENT**

AS AN EDUCATOR YOU HAVE A DUTY TO RESPOND.

All forms of harassment are viewed in a similar manner, hence the definitions of sexual harassment can be used to understand other discriminatory harassment.

How does OCR (Office for Civil Rights – the arm of the Dept. of Education that enforces Title IX, the law that is the basis for sexual harassment in the educational setting) define sexual harassment:

(1) **Hostile Environment** – *creation of an environment that is so severe, persistent or pervasively negative that it adversely affects a student's education or creates a hostile or abusive educational environment. A one-time incident must be severe to be sexual harassment.*

(2) **Quid pro quo:** *school official / employee explicitly or implicitly conditions a student's participation in an educational program or activity or bases an education decision on a student's submission to unwelcome sexual advances, requests for sexual favors, or other verbal or nonverbal or physical conduct of sexual nature, or retaliates for refusal.*

OVERALL

The educator's response to any complaint of any harassment must be *reasonably calculated to prevent further harassment*. The remedy should be *assessed proportionately to the seriousness of the offense*. The response must take care that the remedial steps do not adversely affect the complainant, in other words, don't revictimize the victim.

If discipline is applied, it should reflect the severity of the conduct. There should be follow-up checks to ensure that the harassment has not resumed and that there has been no retaliation.

Even if an allegation isn't substantiated all parties must be reminded of the seriousness of the issue, of the policy and the procedures for response, and be warned against any retaliatory action.

YOUR FIRST NOTICE OF A PROBLEM

If a student approaches you about an alleged problem, LISTEN LISTEN LISTEN. Let the student tell you what he/she has to say. Do not ignore it. Harassment, real or perceived, will not go away by itself.

Listen to the student raising the concern / making the complaint.

Take the student seriously.

Reserve your own judgement.

Put aside your personal biases and emotional response.

Assure the student that appropriate response will be made in a timely fashion – and mean it.

DOCUMENT what you have heard and what you have done – don't depend on your memory!

THE FIRST IMPORTANT RESPONSE is to assure that **the alleged victim is OK (safety and medical issues** must take precedence).

YOUR NEXT, OR SIMULTANEOUS RESPONSE, may be to seek advice – call the Academic or Student Life Dean, call Equity Programs.

THE FIRST RESPONSE IS OFTEN CEASE AND DESIST. You or the person you have called in will take steps to be sure the alleged offending behavior can not be repeated. This step should happen even if it is not clear if it had happened before. A cease and desist says *this, whether or not it has happened before, can not happen, and must be avoided from this point forward.*

IF AN INVESTIGATION IS NEEDED

You may be the person to handle the investigation, or you may need to / want to turn it over to the Academic or Student Life Dean or the Equity Programs Office. Where an investigation is possible or probable you or someone must talk to both parties. In this discussion be, again, an active listener and withhold your own judgement. Be unbiased, let the facts come out.

NO RETALIATION !!!

As part of ANY response to an allegation you must protect all parties involved from retaliation. A notice of no retaliation says:

There is to be no avoidable negative or threatening intentional contact, behavior, or action of any kind taken by, or on behalf of, a party to the allegation that affects someone who has been involved in the investigation and complaint procedure. It is the civil right of any individual to lodge a complaint, and it is the duty of everyone who might be asked to do so to cooperate with resultant investigations.

If the alleged victim and/or the alleged perpetrator want to talk to someone else help make that possible. Assist the students in finding someone to talk to and to find a way to respond.

DISCIPLINE AS NEEDED

If a complaint is investigated and there is a positive finding - a violation did occur – the response is dependent on the nature and severity of the violation.

Make it clear that no further violations will be tolerated

Ensure that any action that is taken HAS NO adverse effect on the complainant.

The response should have the effect of making the complainant “made whole” with any other remedies as needed.

DOCUMENT DOCUMENT DOCUMENT each step of the process with details about what happened, dates, times, who was present, etc., etc..

OVER TIME

Educate as necessary to improve the situation.

Monitor to be sure the problem does not reoccur.