
SEXUAL HARASSMENT

www.oed.wisc.edu/sexual-harassment-information.htm

**Defining and
Addressing a
Community
Concern**



WISCONSIN
UNIVERSITY OF WISCONSIN-MADISON

We cannot tolerate harassment of any member of our community. When sexual harassment occurs, it degrades the quality of work and education at the University of Wisconsin–Madison. It erodes the dignity and productivity of the individuals involved and diminishes the quality, effectiveness, and stature of the institution. Sexual harassment not only violates the law and university policy but can also damage personal and professional relationships; cause career or academic disadvantage; and expose the university to legal liabilities, a loss of federal research funds, and other financial consequences. For all these reasons, it is in our best interest to educate all community members and take other steps necessary to prevent sexual harassment. We have a collective responsibility to do so, thereby promoting a climate that supports excellence in teaching, research, and service.

This brochure addresses sexual harassment. The Office for Equity & Diversity is available to address inquiries regarding discrimination or harassment prohibited by federal and state laws and UW System and UW–Madison policies.

Any one of us may experience harassment, be accused of harassment, or be consulted by someone who thinks he or she has been harassed. Sexual harassment can occur in any university setting: in the workplace, the learning environment, or university programs. Each of us has a duty not to harass others and to act responsibly when confronted with the issue of sexual harassment. Principal investigators, supervisors, managers, department chairs, directors, and deans have additional responsibilities: individuals in positions of authority must take reasonable measures to prevent sexual harassment and take immediate and appropriate action when they learn of allegations of sexual harassment (see page 7).

WHAT IS SEXUAL HARASSMENT?

Unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature constitute sexual harassment when:

- submission to such conduct is a condition of employment, academic progress, or participation in a university program; or

- submission to or rejection of such conduct influences employment, academic, or university program decisions; or
- the conduct interferes with an employee's work or a student's academic career, or creates an intimidating, hostile, or offensive work, learning, or program environment.

Tangible Action or Quid Pro Quo (This for That)

Sexual Harassment occurs when employment or academic decisions resulting in a significant change in status are based on an employee's or student's submission to or rejection of unwelcome verbal or physical sexual conduct. Examples include:

- requiring sexual favors in exchange for hiring, a promotion, a raise, or a grade
- disciplining, demoting, or firing an employee because he or she ends a consensual relationship
- refusing to write recommendations for a graduate student because the student refuses sexual advances
- changing work or academic assignments because an employee or student refuses invitations for a date or other private, social meetings

Hostile Environment Sexual Harassment occurs when verbal, non-verbal, and/or physical conduct is:

- sexual and/or based on gender,
- unwelcome, and
- sufficiently severe and pervasive to interfere with a person's work/learning/program performance or to create a hostile, intimidating, or offensive environment

The determination is made on a case-by-case basis looking at the whole record, including the circumstances (such as the nature of the sexual advances) and the context in which the alleged incidents occurred. Some behaviors acceptable in certain contexts are inappropriate in the workplace or classroom, particularly if an objection is expressed.

SEXUAL VIOLENCE AS DEFINED BY TITLE IX

Title IX of the Education Amendments of 1972 ("Title IX") is a federal civil rights law that prohibits discrimination on the basis of sex in federally funded education programs and activities. All public and private elementary and secondary schools, school

districts, colleges, and universities receiving any federal financial assistance must comply with Title IX. Title IX requirements cover sex discrimination, sexual harassment, sexual misconduct, and sexual violence. In accordance with these requirements, UW–Madison is responsible for taking immediate and effective steps to respond to sexual misconduct and violence.

Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

Contact information for the campus Title IX coordinator appears on page 14.

KEY POINTS ABOUT SEXUAL HARASSMENT

Differences in power or status can be a significant component in sexual harassment. A person who seems to acquiesce to sexual conduct may still experience tangible action harassment or hostile environment harassment if the conduct is unwelcome.

Harassment can occur between men and women or between members of the same gender.

Sexual harassment may or may not involve a tangible injury (e.g., economic loss, lowered grades). A sexually harassing environment, in and of itself, may constitute a harm.

Sexual harassment must be addressed and corrected regardless of the position or status of the harasser or the person being harassed.

Conduct is not always offensive or unwelcome to the same degree when perceived by different people. Courts use a "reasonable person" standard to determine whether the contested behavior constitutes sexual harassment.

Individuals in positions of authority are responsible for ensuring that employees, students, or others do not harass. In the workplace, offenders can be

supervisors, co-workers, or non-employees, such as vendors, customers, and suppliers. In an academic or program setting, offenders can be faculty, instructors, lecturers, teaching assistants, coaches, tutors, or fellow students or program participants.

The person filing a sexual harassment charge does not have to be the person harassed but could be anyone significantly harmed by the harassing conduct.

Harassment does not have to be reported immediately, but a significant delay may be a factor in the evaluation of a complaint. A delayed report may result in a dismissal of the complaint (e.g., 300 days, Wisconsin Equal Rights Division).

Allegations involving classroom and teaching expression will be assessed using the university's Prohibited Harassment Policy as it applies to academic speech (Faculty Document 1402c, as amended on 1 March 1999).

Some behavior that is not in violation of university policy may, nonetheless, be unprofessional under the circumstances. Consequences of such unprofessional behavior may include poor performance evaluations or possible discipline.

RETALIATION

State and federal laws and university policy protect against retaliation. University policy prohibits retaliation against a person because he or she reported sexual harassment, filed a complaint, participated in the investigation of a complaint, or assisted others who raised a complaint.

Retaliation is a serious offense that can result in disciplinary action. This protection exists even if a complaint eventually is dismissed or found lacking in merit. It does not follow that false claims will be tolerated: a person will be held accountable for knowingly making a frivolous or malicious complaint of sexual harassment.

THE STATEMENT ON CONSENSUAL RELATIONSHIPS

The university presumes that the ability to make objective decisions is compromised if there is a romantic and/or sexual relationship between two

individuals who have a reporting or evaluative relationship. There is almost always a power differential between such individuals that not only obscures objectivity but also influences perceptions of consensuality. The individual with the power or status advantage is required by university policy to report the relationship to his or her supervisor and will be accountable for failing to make this report. The supervisor who learns of the consensual relationship has the responsibility to make appropriate arrangements to eliminate or mitigate a conflict that might prove detrimental to the university or to either party in the relationship, particularly the person in the subordinate role. Supervisors can consult with any of the resources in this brochure for assistance in meeting this responsibility. The policy applies when:

- one member of a couple supervises the other or teaches in an academic program in which the other member is enrolled
- one member of a couple will vote on or substantially influence the other's salary, job contract, promotion, or other condition of employment
- one member of a couple is the other's instructor or grader in a course or degree program, or is in a position to influence the other's academic progress

WHAT TO DO ABOUT SEXUAL HARASSMENT?

We encourage early contact: consultation is not escalation. Timely discussion of people's concerns may allow resolution before alternatives become limited. The university will protect confidentiality to the extent possible under the law. Sexual violence or sexual harassment that creates a hostile environment can endanger other members of the university community, and, therefore, the university's ability to keep that information confidential is limited. If you would like an initial consult by an office that can ensure confidentiality, contact the Employee Assistance Office (employees) or University Health Services (students). Please note that mandatory reporting laws may require reporting sexual violence perpetrated against a minor.

If You Feel You've Been Sexually Harassed

Seek advice. Consult your supervisor, manager, HR representative, department chair, director, dean, or any campus resource to discuss options for resolution.

You may choose to seek informal resolution or file a sexual harassment complaint.

You may find it helpful to seek support from a trusted colleague.

Keep notes of what happened, when, where, and who was present. Retain copies of any correspondence.

Consider informing the individual(s) involved that the conduct is unwelcome and that you expect it to stop.

If You Are Accused of Harassment

Early consultation may help avoid claims of retaliation and facilitate resolution of the situation.

You will be informed of any complaint filed against you and provided with an opportunity to respond to the specific allegations.

You should contact the campus Title IX coordinator in the Office of Compliance.

You may choose to seek private legal advice at your own expense.

Be honest when questioned about alleged conduct and explain its context.

If Someone Confides in You

Listen to the allegation of harassment sympathetically but objectively.

Encourage the individual to contact a campus resource who can explain alternatives available to resolve the situation.

If requested, and if you are comfortable doing so, assist the individual in reporting the behavior.

If someone confides to you that he or she has been the victim of sexual violence, dating violence, domestic violence, or stalking perpetrated by a university employee or student within the context of a university activity, immediately contact the Title IX coordinator.

Keep allegations of the above behavior and other sexual harassment confidential, except as necessary to cooperate with appropriate university officials.

If You Are in a Position of Authority

(e.g., principal investigator, supervisor, manager, department chair, director, dean)

Sexual harassment can arise in a healthy environment but it often develops in negative climates. If you have

concerns about the climate in your area, consult with a campus resource to learn about proactive measures to improve the climate for all individuals.

Distribute the Prohibited Harassment Policy to new faculty and staff and to all employees periodically and when there are modifications to the policy.

Periodically remind employees of your expectation that they maintain a harassment-free environment. Provide resources (e.g., this brochure, a link from the department's website to the sexual harassment website).

Schedule Sexual Harassment Information Sessions and promote attendance by all department members.

Encourage employees and students to come forward with questions, concerns, and allegations. Avoid discouraging persons from "going outside the department with problems." (A person may not be comfortable reporting within the department and may not seek help if the department's culture discourages outside assistance.)

Take every complaint seriously and ensure that others do so as well. Ensure that your department appropriately addresses all complaints. If you have questions about the scope of your responsibility, contact the campus Title IX coordinator in the Office of Compliance.

Ensure that no retaliation occurs against the person making the allegations and that the person charged with harassment is not assumed guilty and/or disciplined solely on the basis of allegations without further investigation.

For the protection of both parties, comply with all applicable university procedures and ensure that your department fully cooperates with any investigation.

ADVICE FOR CONVERSATIONS

If you are approached by someone who thinks he or she has been sexually harassed, you can help by referring the person to campus resources. Encourage the person to seek advice about reporting the behavior and learn about alternatives for resolution.

When listening to the person's concern, you should refrain from labeling the described conduct as harassment or saying that it is not harassment. Listen to the concern and move on to identify who can help resolve the situation.

In addition to providing information about campus resources who will assist in dealing with sexual harassment, you may also discuss the situation and provide support. If you are asked to become involved and/or take action, you should first contact a campus resource for guidance. Each case is unique and needs individual attention; there is no standard advice you can provide.

If you choose to assist the person through the process of resolution, the principles guiding your approach should be to listen, be respectful, be objective, and consult campus resources.

During your Conversation

Determine quickly what the individual approaching you wants. Ask, “What would you like me to do?” or “How would you like me to help you?” This will help avoid misunderstandings and clarify the person’s objective in approaching you.

Be respectful. Do not dismiss the complaint as trivial; avoid telling the person to “grow a thicker skin” or saying that the alleged perpetrator “means well but sometimes slips.” Although such statements may be intended to help, these types of comments can make the person feel discounted. Try to keep in mind that what may seem unimportant to you may be offensive or threatening to someone who has different life experiences or less power.

Acknowledge the courage needed to approach you and the difficulty of the situation. If the person cries, remember that tears have various meanings and are often a sign of frustration and anger in professional settings. Acknowledge the person’s emotions, without labeling them, by saying something like: “This must be difficult for you.” Offer a box of tissues and allow time for the person to regain composure.

Remember that the fear of retaliation is common among those who have been sexually harassed and is often the reason they do not bring complaints forward. Reassure the person and explain that university policy operates in conjunction with federal and state laws to prohibit retaliation against complainants. Retaliation against someone who participates in an investigation or assists someone in making a complaint also is prohibited. The policy applies even if a complaint ultimately is not substantiated to a degree required by law.

Be neutral. Avoid comments such as “I’m sure he didn’t mean anything by it” or “Oh, she does that to everyone,” which may sound as if you are defending the accused. Also avoid comments such as “Well, you’re so young and pretty” or “You shouldn’t have been in the lab by yourself at night,” which may sound as if you are blaming the person confiding in you.

If you elect to support the person, you should not feel you must follow the matter through to its final conclusion. If you become uncomfortable with your involvement at any time, acknowledge your discomfort and let the person know that you are sorry but you cannot continue in the support role. Acknowledge how difficult it must be for him or her and encourage the person to consult a campus resource to receive appropriate assistance.

LIABILITY FOR HARASSMENT

While we have a collective responsibility to provide a work and learning environment free of sexual harassment, the university’s leaders must make proactive efforts to prevent sexual harassment and respond in a timely and effective manner to allegations of sexual harassment. Actions taken by individuals in positions of authority (e.g., principal investigators, supervisors, managers, department chairs, directors, deans) are pivotal to the determination of legal liability when lawsuits or complaints are filed with federal or state enforcement agencies. (Leaders’ responsibilities are outlined on page 7.)

In cases where sexual harassment by a supervisor culminates in a tangible employment action, the university will be liable in spite of preventive and corrective actions and the absence of fault on the part of senior administrators.

In cases where a supervisor creates a hostile environment, the university will be liable unless:

- the university took reasonable care to prevent and correct the harassing behavior, and
- the employee unreasonably failed to take advantage of preventive or corrective steps provided by the university to avoid harm.

In cases of sexual harassment between co-workers, the university will be liable for harassment if the

university (through its agents) knew or should have known of the conduct and failed to take immediate and appropriate corrective action to stop the harassment, prevent its recurrence, and remedy effects that reasonably could have been prevented.

In cases of sexual harassment by non-employees, such as customers, program participants, or suppliers, the university will be liable for harassment if the university (through its agents) knew or should have known of the conduct and failed to take immediate and appropriate corrective action to stop the harassment, prevent its recurrence, and remedy effects that reasonably could have been prevented.

The general principles expressed in the above employment examples also apply in academic environments and other program settings.

CONSEQUENCES OF HARASSMENT

Sexual harassment injures both the individuals involved and the university. It also damages the campus climate for all of us. Possible consequences include:

For the Individuals

- emotional and psychological harm
- diminished ability to work and study, which may have a lasting career impact
- lost confidence in the university's ability to provide a comfortable and safe environment for work and learning
- potential personal liability for damages if unlawful conduct is deemed outside the scope of employment

For the University

- general disruption and reduced productivity and morale
- diminished reputation that may impair efforts to attract, recruit, and retain students, faculty, and staff
- time spent responding to complaint investigators and lawyers
- increased absenteeism and turnover
- costs that may be substantial, including back pay, lost benefits, attorney fees, and expert witness fees
- compensatory and punitive damages

POLICIES

Prohibited Harassment Policy (2 November 1981; University of Wisconsin–Madison Faculty Document 1402c, as amended, 1 March 1999)

Policy Statement on Consensual Relationships (6 April 1992; University of Wisconsin–Madison Faculty Document 940a, 7 February 2011, approved by the Academic Staff Assembly, 9 May 2011)

Sexual Harassment Policy for Classified Employees (effective January 1982)

SAFETY

Call 911 immediately if your safety is at risk.

For campus and community safety resources, visit www.uwpd.wisc.edu (UW–Madison Police Department), www.students.wisc.edu (Division of Student Life), www.uhs.wisc.edu (University Health Services), www.oed.wisc.edu (Office for Equity & Diversity), and www.alerts.wisc.edu (Campus Alerts).

SEXUAL ASSAULT, DATING/DOMESTIC VIOLENCE, AND STALKING

Sexual Assault is any sexual contact without consent. Sexual assault can range from forcible fondling to penetration without consent, which is also known as rape. WI § 940.225

Consent is the presence of a yes to sexual contact (by a person with capacity to consent), not the absence of a no. WI § 940.225

Dating Violence/domestic violence (and/or intimate partner violence) is a pattern of ongoing power and control by one dating/domestic/intimate partner over another. Domestic/dating/intimate partner violence can happen to people of all ages, races, ethnicities, and religions. It occurs in both heterosexual and same-sex relationships. WI §§ 813.12 and 968.075

Stalking is a “course of conduct” directed at a specific person, his or her family member, or a member of his or her household that causes emotional distress or fear of bodily injury or death. WI § 940.32

University Health Services offers confidential victim advocacy for student victims of sexual assault, dating violence, domestic violence, and/or stalking: www.evoc.wisc.edu.

The campus brochure titled “Options for Victims of Sexual Assault, Dating/Domestic Violence, and Stalking” is available at www.uhs.wisc.edu/assault/documents/evocbrochure.pdf.

If you need immediate assistance, please call 911 or one of these numbers:

- If you have been sexually assaulted, call 608-251-7273 (Rape Crisis Center 24-hour hotline).
- If you are experiencing dating/domestic violence or stalking, call 608-251-4445 (Domestic Abuse Intervention Services 24-hour hotline).

SEXUAL ASSAULT REPORTING REQUIREMENTS

Wisconsin law (Chapter 36.11(22)) requires employees who witness a sexual assault on the UW–Madison campus or in the immediate surrounding area, or receive a first-hand report of sexual assault, to report the sexual assault to the campus Title IX coordinator in the Office of Compliance. This effort is not the same as filing a criminal report.

Students who experience, witness, or receive a first-hand report of sexual assault are strongly encouraged to contact the Dean of Students Office in the Division of Student Life, which has been designated to receive reports from students.

CAMPUS RESOURCES

The University of Wisconsin–Madison is committed to preventing sexual harassment and will take prompt and appropriate corrective action whenever it learns that sexual harassment has occurred. You are encouraged to report incidents or concerns to your supervisor, manager, department chair, director, or dean for appropriate action and resolution. Inquiries regarding sexual harassment and other forms of discrimination or harassment prohibited by law or policy may be directed to the Office of Compliance, the Office for Equity & Diversity, or to any of the campus administrative offices identified here:

Office of Compliance

361 Bascom Hall, 265-6018

Cathleen M. Trueba, *Director*

Complaint Investigator, complaint_investigator@mailplus.wisc.edu

The Office of Compliance (OC) is available to receive complaints alleging sex discrimination, including sexual harassment, as well as other forms of discrimination or prohibited harassment. While some people prefer to have their concerns addressed at the departmental level, the university also provides an option for complaint reporting, investigation, and/or resolution through the OC. The OC conducts prompt, thorough, and impartial complaint investigations. Information about the discrimination complaint process is available at www.oed.wisc.edu/filing-complaint.htm.

Title IX Coordinator

www.oed.wisc.edu/title-ix.htm

361 Bascom Hall, 890-3788, david.blom@wisc.edu

David Blom, *Title IX Coordinator*

Title IX prohibits discrimination on the basis of sex in any educational program or activity receiving federal financial assistance. Title IX's prohibitions against sex discrimination include sexual harassment and sexual violence. In accordance with these requirements, UW–Madison is responsible for taking prompt and effective steps to respond to all reports of sex discrimination, including sexual harassment and sexual violence. As applicable, these steps include stopping the behavior, preventing it from recurring, and addressing its effects. Sexual violence includes physical sexual acts performed against a person's will or where a person is incapable of giving consent. A number of acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, and sexual coercion. Dating violence, domestic violence, and stalking typically fall into this category also.

Office for Equity & Diversity

www.oed.wisc.edu

179A Bascom Hall, 263-2378

Wisconsin Telecommunications Relay Service: 7-1-1

Luis A. Piñero, *Assistant Vice Provost for Workforce Equity & Diversity and Deputy Title IX Coordinator*

The Office for Equity & Diversity (OED) is available to address inquiries related to discrimination or harassment and offer advice about options available for resolution. If informal resolution or professional development and training are appropriate alternatives, the OED will

collaborate with individuals to facilitate a resolution that assures that sexual harassment is corrected and its recurrence prevented.

Office of the Chancellor

www.chancellor.wisc.edu

161 Bascom Hall, 262-9947

Matthew Mayrl, *Chief of Staff*

Office of the Provost

www.provost.wisc.edu

150 Bascom Hall, 262-1304

Eden Inoway-Ronnie, *Chief of Staff*

Employee Assistance Office

www.eao.wisc.edu

226 Lowell Center, 263-2987

Sherry L. Boeger, *Director*

Ombuds Office for Faculty & Staff

www.ombuds.wisc.edu

223-225 Lowell Center, 265-9992

Dale Burke, *Ombuds*

Jo Ann Carr, *Ombuds*

John Dowling, *Ombuds*

Rosa Garner, *Ombuds*

Ombuds Office for the School of Medicine & Public Health and the School of Pharmacy

2262 Health Sciences Learning Center

265-9666

http://intranet.med.wisc.edu/ombuds/main/30700

Division of Student Life, Dean of Students Office

www.students.wisc.edu/doso

70 Bascom Hall

263-5700 (ask for drop-in staff member)

University Health Services

(Information Only)

www.uhs.wisc.edu

333 East Campus Mall, 7th Floor

265-5600 (24 hours)

LGBT Campus Center

www.lgbt.wisc.edu

123 Red Gym, 265-3344

Gabe Javier, *Director*

UW–Madison Police Department

www.uwpd.wisc.edu

1429 Monroe Street

262-2957 (24 hours); 262-0139

Carol Ann Kashishian, *Detective*

Office of the Provost
Office of Compliance
Office for Equity & Diversity
Bascom Hall
500 Lincoln Drive
Madison, WI 53706

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