



Preventing Sexual Misconduct (Title IX)

Memorandum

What's Ahead...

Reasons for Concern

Anti-Harassment Laws and Policies

Campus SaVE Act

Sexual Harassment and Sexual Violence

Types of Harassment

Conduct To Be Avoided

Reporting Sexual Harassment

Bystander Intervention

Responding to Complaints

Effects of Trauma

Avoiding Retaliation

Maintaining a Respectful Environment

In Conclusion...

Governor's State University Commitment

Quiz

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MEMORANDUM

To: [Name]

Date: [Date]

Re: Training Course - "**Preventing Sexual Misconduct (Title IX)**"

We are committed to providing an educational environment and workplace in which all faculty, staff and students are treated with respect and dignity. We believe that every student and university employee has the right to a safe and respectful atmosphere that promotes equal opportunity and discourages discrimination, harassment, violence and retaliation.

This 35-minute course is designed specifically for faculty and staff members, because you have special responsibilities in helping us maintain a safe and respectful environment. Not only must you refrain from engaging in inappropriate conduct yourself, but you must also know what to do when you observe or learn of inappropriate conduct by others.

If you have questions about any of this material or about your responsibilities to report information about sexual misconduct, please direct them to Human Resources or Title IX Coordinator, Sandra Alvarado, Director of Human Resource Services.

Page 1 of 17

What's Ahead...



This course will address these issues:

- Why do you need to be concerned about sexual misconduct, including sexual discrimination, harassment and violence?
- What are the key laws and policies that you need to be aware of?
- What must you, as a faculty or staff member, do to comply with and carry out your responsibilities under these laws and policies?

At the end of this material, you'll take a quiz that presents various scenarios for you to analyze. As you answer questions about these scenarios correctly, you'll move through the quiz and earn a Certificate of Completion.

If you are unable to complete the course in one sitting, you may stop at any time and return to it as often as needed. You will be able to resume from where you last stopped.

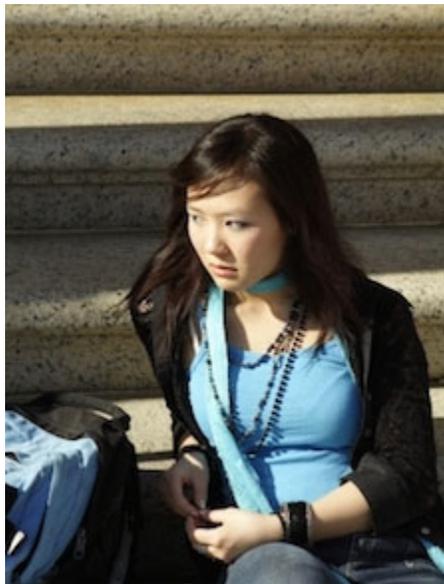
Bulletin!

Learning Objectives

This course will address these issues:

- Why do you need to be concerned about sexual misconduct, including sexual discrimination, harassment and violence?
- What are the key laws and policies that you need to be aware of?
- What must you, as a faculty or staff member, do to comply with and carry out your responsibilities under these laws and policies?

Pop Quiz!



Which of the following statistics about sexual violence on college campuses is/are true:

- 1. One in five college women and one in 16 college men are sexually assaulted during their college years.
- 2. A relatively small percentage — 28% or less — of even the most serious incidents are reported to authorities.
- 3. Twenty percent of women and 5 percent of men report being sexually assaulted either by physical force or while incapacitated.

- 4. Those in the lesbian, gay, bisexual and transgender community — especially men — are more likely to experience sexual assault or violence than those in the heterosexual community.
- 5. All of the above.

1. We disagree.

All of these statistics are true. Consider these additional statistics:

- Nearly two-thirds of victims say they had been drinking alcohol just before the incidents;
- Most victims of physically forced (79%) or incapacitated (88%) sexual assault knew the person who assaulted them;
- Freshmen and sophomores are at greater risk for victimization than juniors and seniors; and
- Nine percent of college males in one survey admitted to committing acts that met the legal definition of rape.

2. We disagree.

All of these statistics are true. Consider these additional statistics:

- Nearly two-thirds of victims say they had been drinking alcohol just before the incidents;
- Most victims of physically forced (79%) or incapacitated (88%) sexual assault knew the person who assaulted them;
- Freshmen and sophomores are at greater risk for victimization than juniors and seniors;
- Nine percent of college males in one survey admitted to committing acts that met the legal definition of rape.

3. We disagree.

All of these statistics are true. Consider these additional statistics:

- Nearly two-thirds of victims say they had been drinking alcohol just before the incidents;
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- Freshmen and sophomores are at greater risk for victimization than juniors and seniors;
- Nine percent of college males in one survey admitted to committing acts that met the legal definition of rape.

4. We disagree.

All of these statistics are true. Consider these additional statistics:

- Nearly two-thirds of victims say they had been drinking alcohol just before the incidents;
- Most victims of physically forced (79%) or incapacitated (88%) sexual assault knew the person who assaulted them;
- Freshmen and sophomores are at greater risk for victimization than juniors and seniors;
- Nine percent of college males in one survey admitted to committing acts that met the legal definition of rape.

5. *We agree.*

Consider these additional statistics:

- Nearly two-thirds of victims say they had been drinking alcohol just before the incidents;
- Most victims of physically forced (79%) or incapacitated (88%) sexual assault knew the person who assaulted them;
- Freshmen and sophomores are at greater risk for victimization than juniors and seniors;
- Nine percent of college males in one survey admitted to committing acts that met the legal definition of rape.

Reasons for Concern



All faculty and staff need to be concerned about sexual misconduct at our university for several reasons:

- ***To maintain a safe and effective educational environment and workplace.*** To the degree students can participate in academic, athletic and extracurricular activities — and employees can perform their jobs — without fear of being victims of harassment or violence, they will be happier and healthier.
- ***To comply with the law.*** Title IX, a federal law, protects students and university employees from sexual discrimination, harassment and violence in a university's educational programs. In addition, the Campus Sexual Violence Elimination Act (Campus SaVE Act), a companion to Title IX, is aimed at improving transparency about sexual violence on campus by requiring universities to report a broader range of incidents, among other things. The Illinois Human Rights Act, the Preventing Sexual Violence in Higher Education Act, and the State Officials and Employees Ethics Act also prohibit sexual discrimination, harassment and violence.
- ***To comply with our policies.*** Sexual discrimination, harassment and violence violate our university's policies and our commitment to providing a safe and respectful workplace and educational environment. Faculty, staff and students who engage in sexual discrimination, harassment or violence will be subject to discipline. For faculty or staff, this could include termination from employment.

Bulletin!

Efforts to Combat Sexual Violence Ramp Up

Measures Are Aimed at Prevention, Transparency in Reporting

In January 2014, the Obama administration established the White House Task Force to Protect Students from Sexual Assault. In April 2014, the Task Force released a report recommending best practices for colleges and universities to prevent and address sexual assault and sexual harassment and launched a dedicated website — www.NotAlone.gov — to make enforcement data public and to make other resources accessible to students and schools.

In September 2015, the Task Force released a [Resource Guide](#) to support the efforts of students, faculty, administrators and communities to prevent sexual violence and improve the response to it at colleges and universities. The Resource Guide is a source of extensive guidance, tools, model policies, procedures and other reference materials concerning campus sexual assault.

Anti-Harassment Laws and Policies



Title IX of the Education Amendments of 1972 is a federal law that **prohibits** sex discrimination in education programs and activities that receive federal funds. Sex discrimination includes **sexual violence** and **gender-based harassment**.

The protections of Title IX extend to all academic, educational, extracurricular, athletic and other programs of our university, whether those programs take place on campus, in one of our facilities, at an off-campus class, seminar or event that we sponsor, or elsewhere. Title IX protects both male and female students and faculty and staff from sexual harassment by any of our employees, non-employee third parties and other students. The Illinois Human Rights Act, the Preventing Sexual Violence in Higher Education Act, and the State Officials and Employees Ethics Act also prohibit unlawful discrimination or harassment.

Similarly, university policies prohibit sexual discrimination and harassment and require all employees and students to ensure an educational environment and workplace free from discrimination and harassment. Our policies also strictly prohibit retaliation against anyone who makes a good-faith complaint or report.

Page 4 of 17

Other Federal-Law Protections

Title VII of the Civil Rights Act prohibits discrimination based on a person's sex and certain other characteristics. Sexual harassment also may violate Title IV of the Civil Rights Act, which prohibits public school districts and colleges from discriminating against students on the basis of sex, among other things.

The Campus Sexual Violence Elimination (Campus SaVE) Act provides mandatory procedures for reporting of sexual misconduct and protecting student rights in the context of investigations and disciplinary proceedings. Its enactment reflects a greater tendency to treat certain forms of Title IX sexual misconduct as a crime rather than a less serious civil offense.

Title IX Protections

Those protected against sexual discrimination, harassment and violence under Title IX include —

- Students;
- Faculty, staff and other employees; and
- Third parties, such as visiting parents, visiting student-athletes and high-school students participating in interviews or recruiting.

Gender-Based Harassment

Title IX prohibits gender-based harassment, regardless of the actual or perceived sexual orientation or gender identity of the harasser or target. Gender-based harassment means any unwelcome sexual advances, requests for sexual favors, or any conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of employment or academic achievement
2. Submission or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual, or
3. Such conduct has the purpose or effect of substantially interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive work or academic environment.

Gender based harassment includes acts of verbal, nonverbal or physical aggression, intimidation and hostility based on sex or sex-stereotyping.

Sexual Violence

"Sexual violence" refers to physical sexual acts done to a person, either against that person's will or where the person is incapable of giving consent due to drug or alcohol use or an intellectual or other disability.

Sexual violence includes, but is not limited to —

- Sexual coercion;
- Sexual assault;
- Sexually motivated stalking;
- Rape;
- Dating violence; and.
- Domestic violence.

Campus SaVE Act



In March 2013, President Obama signed the Campus SaVE Act into law. The measure, a companion law to Title IX, requires colleges and universities to include in their annual security reports statistics on incidents of domestic violence, dating violence and stalking that students, faculty or staff reported to campus police or local police agencies. It also expands the categories of reportable "hate crimes" to include

those based on bias against gender identity or national origin. Each of these crimes is defined and described in the next section of this course.

The Campus SaVE Act also requires colleges and universities to include their policies for following up on reported incidents in their annual security reports, and to provide students and employees who report victimization with their written rights. These include, among other things, the right to —

- Receive assistance from campus authorities (if reporting a crime);
- Change academic or living conditions to avoid harassment; and
- Obtain or enforce an order of protection.

Page 5 of 17

Sexual Harassment and Sexual Violence



- **“Sexual harassment” means any unwelcome sexual advances, requests for sexual favors, or any 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,**
- **submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting said individual, or**
- **such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.**

The most serious form of sexual harassment is ***sexual violence***. That term refers to physical sexual acts that occur without a person's **consent** or when the person is incapable of consenting due to drug or alcohol use or a disability. Sexual violence includes **rape**, **sexual assault** or battery, **sexual coercion** and all forms of **intimate-partner violence**.

At the other end of the spectrum, not all conduct of a sexual nature is sexual harassment. To be considered sexual harassment, conduct must be —

- ***Based on gender*** — e.g., jokes or comments that are sexual in nature; and

- ***Objectively offensive*** — that is, conduct that would offend a reasonable person and not just a particularly sensitive individual.

Page 6 of 17

Consent

Consent is informed, freely given, and a mutually understood agreement to sexual activity. Consent requires an affirmative act or statement by each person; a person's lack of verbal or physical resistance or submission resulting from the use or threat of force does not constitute consent.

If a person is under age, mentally or physically incapacitated or impaired so that the person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption or being asleep or unconscious.

Although the definitions of acts that constitute sexual assault vary from state to state, generally speaking, sexual contact with a person without that person's consent is sexual assault.

Rape

While the definition of rape varies according to each state's particular criminal code, generally speaking, rape is a type of sexual assault, usually involving sexual intercourse (defined as penetration of any bodily orifice with any object) initiated against someone without his or her consent.

Sexual Assault

While the definition of sexual assault varies according to each state's particular criminal code, generally speaking, sexual assault includes attacks or attempted attacks involving unwanted sexual contact against the victim. It also includes verbal threats.

Sexual assaults may or may not involve force and include such things as grabbing or fondling.

Sexual Coercion

Sexual coercion involves using pressure, alcohol or drugs — sometimes after the victim has already refused advances or requests for sex — to force the victim to have sexual contact against his or her will.

Taking advantage of someone at a moment of emotional stress or weakness may be considered sexual coercion. A steady onslaught of requests for sex can also be considered sexual coercion — especially when combined with alcohol or drug use.

Intimate-Partner Violence

Intimate-partner violence includes —

- **Stalking:** Conduct directed at a person that would cause a reasonable person to fear for her, his or another's safety, or to suffer substantial emotional distress;
- **Dating violence:** Violence by a person who has been in a romantic or intimate relationship with a person;
- **Sexual violence;** and
- **Domestic violence:** Violent misdemeanor and felony offenses committed by the victim's current or former spouse or cohabitant.

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Indifference Can Be Costly

Six- and Seven-Figure Settlements Reached in Two 2016 Lawsuits under Title IX

In addition to violating the University's commitment to providing a respectful and harassment free educational and work environment, indifference to sexual harassment and assault can be costly. Recently, two sexual-assault lawsuits brought under Title IX included claims that the universities followed policies of "indifference" toward sexual assaults on university campuses. The 2016 settlements in these cases illustrate that a policy of indifference can be very costly to a university.

In January 2016, Florida State University agreed to pay \$950,000 to Erica Kinsman, a former student who claimed she was raped by star quarterback Jameis Winston in 2012. Central to the lawsuit was a Title IX claim alleging FSU's indifference to Kinsman's reported sexual assault.

In July 2016, the University of Tennessee settled a lawsuit in which plaintiffs — a group of eight young women — claimed that UT violated Title IX by creating an environment in the athletics department that led to sexual assaults and then disciplined the athletes through a hearing process that was biased in favor of the athletes. The University agreed to pay plaintiffs \$2.48 million to settle the suit.

Other such cases involving different universities are pending. In one high-profile example, Baylor University faces several lawsuits that claim the school was indifferent to or ignored claims of sexual assault and failed to enforce federal discrimination protections under Title IX.

Types of Harassment



There are two types of sexual harassment:

Quid Pro Quo

Sometimes sexual harassment is direct and obvious. For example, an instructor might make sexual advances toward a student, promising a better grade if the student submits to those advances. Likewise, a supervisor may make similar advances toward a subordinate while promising a raise or promotion. This is known as **quid pro quo** harassment.

Hostile Environment

Most of the time, however, harassing conduct is more subtle and indirect. It may consist of disparaging comments or jokes that interfere with a student's academic performance or an employee's ability to perform his or her job, or it might create an educational environment that is intimidating, hostile, offensive or threatening. If the conduct is severe or pervasive, it is **hostile environment** harassment.

While quid pro quo harassment usually involves an instructor pressuring a student or a supervisor pressuring a subordinate, anyone can create a hostile environment — a coach, administrator, colleague, resident advisor or another student.

The applicable laws and our policies prohibit all types of sexual harassment.

Severe and Pervasive Conduct

As a general rule, **severe** or **pervasive** sexual conduct is much more likely to create a hostile environment than an occasional or minor sexual comment.

Pop Quiz!



Which of the following factors is/are relevant to whether specific conduct created a sexually hostile environment:

- 1. The frequency and severity of the conduct.
- 2. Whether it was physically threatening or humiliating.
- 3. Whether it was directed at the alleged victim.
- 4. All of the above.

1. We disagree.

All of these factors are relevant. It's hard to assess the real-world impact of potentially harassing conduct without also considering the **context** in which it occurred. Other relevant factors include (1) whether the conduct was engaged in by a faculty or staff member or a student; and (2) whether it interfered with a student's academic opportunities or performance, or an employee's ability to carry out his or her job responsibilities.

2. *We disagree.*

All of these factors are relevant. It's hard to assess the real-world impact of potentially harassing conduct without also considering the **context** in which it occurred. Other relevant factors include (1) whether the conduct was engaged in by a faculty or staff member or a student; and (2) whether it interfered with a student's academic opportunities or performance, or an employee's ability to carry out his or her job responsibilities.

3. *We disagree.*

All of these factors are relevant. It's hard to assess the real-world impact of potentially harassing conduct without also considering the **context** in which it occurred. Other relevant factors include (1) whether the conduct was engaged in by a faculty or staff member or a student; and (2) whether it interfered with a student's academic opportunities or performance, or an employee's ability to carry out his or her job responsibilities.

4. *We agree.*

It's hard to assess the real-world impact of potentially harassing conduct without also considering the **context** in which it occurred. Other relevant factors include (1) whether the conduct was engaged in by a faculty or staff member or a student; and (2) whether it interfered with a student's academic opportunities or performance, or an employee's ability to perform his or her job responsibilities.

Conduct To Be Avoided



The following are examples of conduct that could create a hostile educational or work environment:

- Propositioning or pressuring students or employees for sexual favors;
- Spreading rumors about or rating students or employees on sexual activity or performance;
- Using sexual gestures or touching oneself sexually in front of others;
- Telling or emailing sexually explicit jokes;
- Posting sexual material on Facebook, Twitter or other social media;
- Making suggestive, insulting or obscene comments;
- Massaging someone on any part of his or her body; or
- Discussing one's sexual thoughts, fantasies or activities.

Page 8 of 17

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e-Harassment

Increasingly, inappropriate sexual communications arrive in emails, instant messages, blog posts, tweets and other social media posts. College campuses are smack in the middle of this trend. Consider these statistics:

- Nearly 80% of college students have received sexually explicit images via text messaging.
- More than 50% of college students have received sexually suggestive text messages.

Even more alarming is the fact that almost 20% of people who received such "sexts" then forwarded them on to someone else. Of those, 10% were sent without permission from the original author.

If a message, picture or web page would be inappropriate to share with someone face to face, it's equally inappropriate to communicate it electronically.

Reporting Sexual Harassment



If you experience, see or otherwise learn of any conduct that you believe is discrimination or harassment, you should —

- Report the conduct immediately to a [Title IX Coordinator](#) or other designated university official; and
- If safe to do so, tell the person who is engaging in the conduct that you consider it unwelcome and would like it to stop.

In response —

- We will inform the victim of [available resources](#) and his or her options for formal action (i.e., filing a formal complaint, contacting law enforcement,) or informal action and our university responsibilities;
- We will conduct a prompt and thorough investigation;
- We will take corrective action if we determine that a law or policy was violated; and
- We will keep the complaint confidential, to the extent we can do so consistently with our duty to investigate and take corrective action.

If you are a GSU employee, in addition to reporting any instance of discrimination or harassment to the Title IX Coordinator, you may also report such conduct to (1) your supervisor, (2) GSU's Ethics Officer, (3) the OEIG, and/or (4) the Illinois Department of Human Rights.

Reports to Supervisors or the GSU Ethics Officer are internal complaints. Internal complaints allow GSU's Title IX coordinate to respond quickly with interim measures where appropriate.

- (1) Reporting an Allegation to your Supervisor. Supervisory employees at GSU will report all allegations to the University's Title IX coordinator. Where allegations rise to the level of criminal violations, such allegations will also be reported to the GSU police department. Where there is a finding of unlawful discrimination or harassment, GSU will take all necessary steps to stop the conduct and remedy its adverse impact on the work or educational environment.
- (2) Reporting an Allegation to GSU's Ethics Officer. You may report allegations of discrimination or harassment to the University's Ethics Officer. The Ethics Officer can assist you in making an internal complaint through the University's Title IX procedures or explain the complaint processes available through the Office of Executive Inspector General (OEIG) and the Illinois Department of Human Rights (IDHR). Where there is a finding of unlawful discrimination or harassment, GSU will take all necessary steps to stop the conduct and remedy its adverse impact on the work or educational environment. The University's Ethics Officer is General Counsel and Vice President Sarah Luke.

She can be reached at (708)534-7096, or via email at sluke@govst.edu. Her Office is G364.

Reports to the OEIG or the IDHR are external complaints that allow for investigation outside of and independent from the GSU Title IX response.

- (3) The OEIG is an independent State agency that works to hold state agencies, like GSU, accountable. The OEIG investigates alleged violations of law, rule, or regulation committed by GSU employees or those doing business with GSU, including allegations of unlawful discrimination and harassment as described here. Complaints must be filed within one year of the alleged violation. You may file a complaint using OEIG’s online form: <http://www.inspectorgeneral.illinois.gov>. You may also call the toll-free hotline (866) 814-1113 or (TTY) at (888)261-2734. OEIG accepts anonymous complaints. All complaints must be made in good faith. OEIG is located at 69 West Washington Street, Suite 3400, Chicago, IL 60602.
- (4) The IDHR is a state agency that administers the Illinois Human Rights Act. The Illinois Human Rights Act prohibits sexual harassment in employment. IDHR investigates charges of discrimination and makes a finding of whether or not there is “substantial evidence” of a violation of the Act. IDHR does not make a credibility determination where there is conflicting evidence. After IDHR issues its finding, a complainant may file a lawsuit, or, if IDHR finds there is “substantial evidence” of a violation, IDHR may file a complaint with the Illinois Human Rights Commission.

The IDHR website is www.illinois.gov/dhr. It provides additional information about sexual harassment, filing a charge, the process for investigating and resolving an allegation, and other frequently asked questions.

IDHR offices:

Chicago	Springfield	Marion
James R. Thompson Center	222 South College St.	2309 W. Main St.
100 W. Randolph St. Suite 10-100	Room 101A	Marion, IL 62959
Chicago, IL 60601	Springfield, IL 62704	618-993-7463
312-814-6200	217-785-5100	866-740-3953 (TTY)
	866-740-3953 (TTY)	

866-740-3953 (TTY)		
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Hours for these offices, including hours when the offices conduct intake interviews for new Complainant Information Sheets, can be found on IDHR's website.

Complainants may also file external complaints with the United States Department of Education Office for Civil Rights (OCR). The OCR online complaint form is available here: <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>.

Resources

We will inform the victim of resources and options available to him or her, such as —

- The assistance of campus security or local police;
- Counseling services; and
- Interim measures that we can take and options he or she may have to prevent further contact with the perpetrator.

Title IX Coordinator

For information about Title IX or to file a complaint of sexual misconduct with the Title IX Coordinator, contact —

- Sandra Alvarado
- Director of Human Resource Services/ Title IX Coordinator
- Phone: 708-534-4100
- Fax: 708-534-1642
- Email: titleixofficer@govst.edu
- More information is available at www.govst.edu/titleix

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Harassment Victims Suffer in Silence

Statistics Suggest that Campus Incidents Are Vastly Underreported

The facts and figures indicate that sexual assault is a "silent epidemic" on college campuses. Studies show that less than five percent of completed or attempted rapes against college women are reported to law enforcement, though some 70% of the victims told a family member, friend, roommate or intimate partner. Of those who did not report the incident to law enforcement, the most common reasons for non-reporting were that (a) they didn't think it was serious enough to report, (b) it was unclear whether a crime had been committed or that harm was intended, and (c) they did not want anyone to know about the incident.

Bystander Intervention



In many circumstances, bystander intervention can be a safe and effective way to prevent sexual harassment and violence. In deciding whether to intervene in a situation potentially involving harassment or violence, take these steps:

- Notice the event and evaluate the risk;
- Determine whether the situation demands your action;
- Assume personal responsibility by making the situation your problem;
- Choose what form of assistance to use; and
- Understand how to implement the choice safely.

If a situation does not look or feel right, step in and say something. It is always better to intervene before sexual misconduct occurs than to regret not doing so later. If you do not feel like you can address the issue, whether because it is unsafe or you are uncomfortable, contact someone who is more equipped to respond, such as campus police.

Bulletin!

Bystander Intervention Techniques

The following are examples of preventive intervention techniques that may be safe and appropriate, depending on the circumstances:

- Dissuade a person from getting into a car or going off alone with a person who is impaired, drunk, belligerent or too forward in his or her physical contact.
- If you witness one person being persistently aggressive toward another, remain with the potential victim until the aggressor has left or the potential victim is in a safe place. Never leave someone alone in a dangerous situation.
- If someone appears uncomfortable in a situation, try to get her or him out of it by inviting her or him away to another location.

Responding to Complaints



Remember these six rules if a student or colleague comes to you with a complaint of sexual misconduct:

1. Before the student or colleague reveals any information he or she may wish to keep confidential, inform the person of your obligation to **report all complaints of sexual misconduct**.
2. Advise the student or colleague that he/she may request the university maintain confidentiality, and assure the person that we will treat the complaint as confidential to the extent possible while conducting our investigation.
3. Offer the student or colleague the option of reporting the sexual misconduct confidentially to counseling services or a confidential advisor.
4. Listen carefully and be familiar with our policy against sexual misconduct, including our grievance procedure.
5. Assure the person that he or she will not be retaliated against for coming forward.
6. Report all complaints to the Title IX Coordinator or other designated university official.

Failure to report a complaint of sexual misconduct could result in serious consequences for our university, including the loss of federal funding and the filing of civil and criminal charges.

Reporting Complaints

When reporting a complaint of sexual misconduct, you **must** provide the Title IX Coordinator or other designated university official with all relevant details that the student or colleague has shared and that the university needs to know to investigate and resolve the situation. This includes —

- The names of all alleged perpetrators (if known);
- The name of the student or colleague who experienced the alleged sexual misconduct;
- The names of other students or employees involved in the alleged misconduct; and
- Any other relevant facts, including the date, time and location of the misconduct.

You must also share your obligation to report this information with the student or colleague who is making the complaint before he or she reveals any information about the misconduct.

Complaints of sexual misconduct must be made in good faith. Individuals who knowingly and intentionally make false complaints of sexual misconduct are subject to significant penalties, including fines, discipline, and possible criminal charges.

State employees who engage in sexual harassment, who make false reports of sexual harassment, or who obstruct, interfere with, or fail to cooperate with investigations into alleged sexual harassment are subject to significant penalties, including fines, discipline up to and including discharge, and even misdemeanors.

Sexual harassment in violation of the Ethics Act. Any person who violates the prohibition on sexual harassment that is found in the Ethics Act:

- may be fined up to \$5,000 per offense;
- is subject to discipline or discharge; and
- may also have fines or penalties imposed by a State or federal agency or court (such as if a charge was filed with IDHR and the court or Human Rights Commission determined that unlawful harassment occurred).

See 5 ILCS 430/50-5(g).

False reports.

- The Executive Ethics Commission (“EEC”) may levy a fine of up to \$5,000 against any person who intentionally makes a false, frivolous, or bad faith allegation. 5 ILCS 430/50-5(e).
- Any person who intentionally makes a false report alleging sexual harassment to the OEIG, EEC, or to certain law enforcement agencies or officials is guilty of a misdemeanor. See 5 ILCS 430/50-5(d).

Obstructing, Interfering with, or Failing to Cooperate with an Investigation.

- The EEC may levy a fine of up to \$5,000 against any person who intentionally obstructs or interferes with an investigation conducted under the Ethics Act by the OEIG. 5 ILCS 430/50-5(e).
- Failure to cooperate with an investigation conducted under the Ethics Act by the OEIG, including intentional omissions and knowing false statements, is grounds for disciplinary action, including dismissal. 5 ILCS 430/20-70.

Bulletin!

Responding to Sexual Assaults

Incidents involving sexual violence or sexual assaults raise additional considerations and responsibilities. If you think that someone has been sexually assaulted, follow these steps:

1. **Determine if the victim is safe.**
2. **Determine if the victim wants or needs medical intervention.**
3. **Inform the victim of his/her option to report the sexual assault.**
4. **Encourage the victim to talk to a counselor.**

Effects of Trauma



Sexual assault can have serious traumatic effects on the victim, including—

- A decline in academic or job performance;
- Increased anger and hostility;
- Social withdrawal and depression;
- A feeling of anxiety, fear and/or guilt; and
- Physical symptoms, such as insomnia, fatigue, memory loss, and aches and pains.

As a responsible employee, you can help prevent [revictimization](#) and reduce the effects of trauma by recognizing these symptoms and treating the victim with sensitivity. It is important that you remain patient and understanding, that you don't pressure the victim into talking about what happened, and that you use [nonjudgmental language](#).

By using sensitivity and understanding the trauma that victims of sexual assault may experience, you can empower the victim and increase the likelihood that he or she will seek help from others, including family, friends, professional counseling services and law enforcement.

Revictimization

Victims of sexual assault not only experience post-traumatic stress and other psychological and physical reactions, but they may be at an increased risk for experiencing continued violence and abuse. This is known as revictimization.

Nonjudgmental Language

It is important to be careful in the language you use when helping a victim of sexual assault. This includes —

- Not asking questions that imply the victim was responsible for what happened (e.g., "What were you wearing?", "Did you say no?", "Were you drinking?", "Why didn't you run away?");
- Avoiding labels, such as "abuse" or "rape";
- Using language that is behaviorally descriptive, such as "hitting" or "touching sexually"; and
- Using supportive language that indicates you believe the victim (e.g., "Thank you for sharing," "What can I do to help you during this time?").

Avoiding Retaliation



If a student accuses a faculty or staff member of misconduct, the accused faculty or staff member may find it hard to treat the student impartially. The accused may feel that the accusation is unjustified, or that the student is too thin-skinned or is trying to get the accused or the university in trouble. In any case, it's only natural for the accused to take a *defensive* position and to want to treat the student with some level of *disdain or bias*.

But a faculty or staff member who acts on his or her defensive feelings by taking [adverse action](#) against a complaining student may face the additional — and often more dangerous — claim of **retaliation**. Even if the student's underlying complaint turns out to have been unjustified, the retaliation claim could live on — and result in big problems for both the faculty or staff member and our university.

Retaliation against individuals who report sexual harassment or who participate in investigations and other proceedings is strictly prohibited by the Ethics Act, the Illinois Human Rights Act, and the Whistleblower Act.

Retaliatory action means reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any State employee that occurs in retaliation for an employee's involvement in these protected activities. These are examples of retaliatory conduct.

Under the Ethics Act, 5 ILCS 430/15-5 et seq., an officer, member, State employee, and/or State agency cannot take retaliatory action against a State employee who (1) reports allegations of sexual harassment, (2) provides information or testifies in

connection with an investigation, hearing, or other inquiry, or (3) participates in a proceeding to enforce the Ethics Act. If retaliatory action occurs, the OEIG can investigate this matter and recommend discipline. An employee can also bring a lawsuit pursuant to the Ethics Act. Anyone who intentionally violates this prohibition on retaliation is guilty of a misdemeanor and is subject to discipline or discharge. 5 ILCS 430/50-5(a), (f).

Under the Illinois Human Rights Act, it is a civil rights violation to retaliate against someone who "has opposed that which he or she reasonably and in good faith believes to be unlawful . . . sexual harassment in employment . . ." 775 ILCS 5/6-101(A).

Under the Illinois Whistleblower Act, 740 ILCS 174 et seq., "[a]n employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation." 740 ILCS 174/15(b).

Remedies available in a civil lawsuit if retaliation occurs may include:

- reinstatement of employment;
- two times back pay;
- interest on back pay;
- reinstatement of fringe benefits and seniority rights; and
- payment of reasonable costs and attorney's fees.

Retaliation against individuals who report sexual harassment or who participate in investigations and other proceedings related to such reports is also strictly prohibited under federal law. To avoid claims of retaliation, you should treat a complaining student or employee in the same manner as you would treat other students or employees who have not complained of misconduct.

Adverse Action

Especially if they occur shortly after a student complains of harassment, the following are examples of actions that could be perceived as retaliatory:

- Issuing a poor or reduced grade;
- Issuing a negative performance evaluation or reference;
- Assigning an undesirable practice or performance schedule;
- Transferring the student to another class, team or program;
- Withholding feedback on performance; and
- Dropping the student from a class, team or program.

Maintaining a Respectful Environment



One of your primary responsibilities as a faculty or staff member is to set the right tone with your own behavior. This involves both avoiding conduct that may lead to liability for our university, and serving as a role model for faculty, staff and students. It includes —

- Being sensitive to the potential effects of the [power disparity](#) between you and students;
- Keeping in mind that when it comes to sexual misconduct, your actions — and how your actions are perceived — matter more than your intentions; and
- Behaving appropriately and professionally at off-site functions, such as outings, university trips, away games or meets, and campus-related social activities.

It is not your role as a responsible employee to evaluate whether behavior meets the legal definition of sexual harassment. If behavior is inappropriate, report it immediately. Don't wait or analyze the situation; just report the misconduct and let the university evaluate.

Power Disparity

Be sensitive to the perceived effect that your words and actions can have on students. A student will not view a social invitation from a professor, for example, in the same way as an invitation from a peer.

Pop Quiz!

Professor Corby is watching a game on TV at a campus pub with some grad students when Alex asks for her advice on his research project. Please pay close attention because we will ask you a couple of questions after the video ends.

Video Transcript:

ALEX: That was a great game!

CHLOE: Oh yeah, that goalie totally gets MVP. That save was amazing!

TARA: Yeah, it was.

PROFESSOR CORBY: Do you guys want to get a little more coffee here?

TARA: I think I have to head out. I have to write my organizational behavior paper. It's due on Friday.

CHLOE: I actually have to head out as well.

PROFESSOR CORBY: Well, take care! I'm so glad we all had a chance to get together.

CHLOE: Yeah, thank you — this was fun.

ALEX: See you guys tomorrow.

TARA: See ya!

ALEX: Professor Corby, can I ask your advice on a couple of points for my capstone project? I think you might have some great insight.

PROFESSOR CORBY: Sure! You know, it's so noisy in here. Why don't we walk over to my apartment — it's only two blocks away. I don't have my computer here anyway.

ALEX: Okay.

PROFESSOR CORBY: Can we get our check please? Perfect, thank you.

How should Alex respond to Professor Corby's offer?

- 1. Suggest that they meet during her office hours instead.
- 2. Make up an excuse and quickly leave.
- 3. Accept her invitation.

1. We agree.

While it's fine to talk to professors about issues and problems outside of class, usually the best way to discuss specific questions or concerns is during office hours. Alex should schedule time during Professor Corby's office hours to discuss his capstone project.

2. We disagree.

This is not the best course of action, as it may leave both parties uncomfortable.

3. We disagree.

There is a better way for Alex to respond.

Could Professor Corby's offer to discuss Alex's project at her apartment be viewed as an unwelcome sexual advance?

- 1. No.
- 2. Yes.
- 3. Maybe, depending on what happens at her apartment.

1. We disagree.

Professor Corby's actions could be viewed as an unwelcome sexual advance by Alex and others — even though it was not her intention.

2. We agree.

Professor Corby's actions could be viewed as an unwelcome sexual advance by Alex and others — even though it was not her intention to engage in an inappropriate relationship with Alex. What matters most is the perception that sexual misconduct may occur when they are alone in her apartment.

3. We disagree.

There's a better answer.

Before inviting Alex to go to her apartment, what should Professor Corby have considered?

- 1. How Alex, other students, her colleagues and administrators would perceive her invitation.
- 2. Her responsibility to set the right tone and avoid any conduct that may lead to liability.
- 3. Her responsibility to not show preferential treatment to students.
- 4. All of the above.

1. *We disagree.*

This is true, but there is a better answer.

2. *We disagree.*

This is true, but there is a better answer.

3. *We disagree.*

This is true, but there is a better answer.

4. *We agree.*

While there is nothing wrong with faculty socializing with grad students, such as watching a game at a pub or having a group dinner at the home of a faculty member, it's important that faculty maintain appropriate boundaries with students.

Before inviting Alex to her apartment, Professor Corby should have thought about her responsibility to avoid showing preferential treatment to any student and, most importantly, to avoid creating even the perception of sexual misconduct.

In Conclusion...



As a faculty or staff member, you're among those likely to witness or receive reports of sexual harassment or sexual violence when such misconduct occurs. It's critical that if you observe or learn of inappropriate conduct, you address it immediately or report it to a Title IX Coordinator. In some circumstances, it may be appropriate to do both.

Your responsibilities are the same regardless of who engages in the misconduct — one of your colleagues, a student or a third party.

By **not** taking action you may —

- Leave the person in danger of possible further abuse;
- Leave the impression that our university condones the misconduct;
- Foster the view among students, colleagues and others in our community that making a complaint would be futile; and
- Subject our university to potential litigation and untold liability.

Page 15 of 17

Bulletin!

Additional Resources

ChangingOurCampus.org — In August 2015, the U.S. Department of Justice's Office on Violence Against Women launched an online resource designed to help colleges and universities improve campus safety and effectively respond to sexual assault, domestic violence, dating violence and stalking on campus. The website includes the latest research, sample campus policies, protocols and best practices. The site provides many useful Title IX resources for campus administrators, faculty and staff. Resources and materials from NotAlone.gov are also accessible at ChangingOurCampus.org.

Governor's State University Commitment

Governors State University (GSU) has committed itself, unequivocally, to ensuring a working and learning environment in which the dignity of every individual is respected. GSU continues to provide an environment for employees, students, and campus visitors that is free from any form of sexual violence. Likewise the University prohibits discrimination on the basis of gender in all University activities and programs. Any form of sexual harassment or discrimination is a violation of [University Policy 52](#) and the [Code of Student Conduct](#). GSU prohibits any gender or sex based harassment, sexual violence, dating violence, domestic violence and stalking (collectively Prohibited Conduct).

Governors State University's Title IX Coordinator is:

Sandra Alvarado, Director of Human Resource Services
Governors State University
1 University Parkway
University Park, Illinois 60484
708-534-4108
Titleixofficer@govst.edu

Any student, faculty or staff who believes they have been subject to sexual harassment, sexual violence or any form of harassment based on sex is encouraged to report the incident(s) to the Title IX Coordinator and file a complaint of sexual harassment. Governors State University shall conduct a prompt investigation of all complaints. All complaints of sexual violence or prohibited conduct shall be submitted in writing to the Title IX Coordinator. GSU's [Title IX Procedures](#) are available for further review.

Governors State University strictly prohibits retaliation against individuals who report sexual violence, prohibited conduct or any other form of harassment based on sex. Such acts of retaliation shall be reported to the Title IX Coordinator by the reporting individual, and the reporting individual will promptly receive written notice of the results of the retaliation investigation, which may include, if circumstances warrant, discipline up to suspension or dismissal of a student and up to suspension or termination of a university employee.

Page 16 of 17

Reasons for Concern

3.1 Which of the following is **not** a reason to be concerned about sexual misconduct on our campus?

- 1. Complying with federal, state and local laws.
- 2. Making sure that there's a "quid pro quo" in the classroom.
- 3. Complying with our organization's policies.
- 4. Helping to maintain a respectful educational environment.

1. *We disagree.*

This is a very good reason to be concerned about sexual misconduct on our campus.

2. *We agree.*

"Quid pro quo" harassment — e.g., where an instructor makes a sexual advance toward a student, promising a better grade if the student submits to those advances — is a serious issue. But "making sure that there's a quid pro quo in the classroom" is not a reason to be concerned about sexual misconduct on our campus.

3. *We disagree.*

This is a very good reason to be concerned about sexual misconduct on our campus.

4. *We disagree.*

This is a very good reason to be concerned about sexual misconduct on our campus.

3.2 Which of the following is **not** a reason to be concerned about sexual misconduct on our campus?

- 1. Harm to our right to free speech.
- 2. Harm to our organization's reputation.
- 3. Harm to our students' and employees' morale.

1. *We agree.*

Maintaining a respectful educational environment should not affect anyone's right to free speech. On the other hand, maintaining a respectful educational environment will protect our organization's reputation and our students' and employees' morale.

2. *We disagree.*

This is a very good reason to be concerned about sexual misconduct on our campus.

3. *We disagree.*

This is a very good reason to be concerned about sexual misconduct on our campus.

Anti-Harassment Laws and Policies

4.1 Will is Erica's creative-writing professor. Erica asked Will out on a date. What should he do?

- 1. Go out with Erica if he wants to, since she asked him out.
- 2. Decline Erica's invitation.
- 3. Ask Erica her age before accepting or declining her invitation.

1. *We disagree.*

Who asked whom is not the critical issue.

2. *We agree.*

Faculty members should not date their students, regardless of who asked whom or the student's age.

3. *We disagree.*

Erica's age is not the critical issue.

4.2 Ed, the women's volleyball coach, was attracted to Sally, a student who kept track of statistics for the team. Can Ed ask Sally out?

- 1. Yes, since he doesn't coach her.
- 2. Maybe, if Sally shows interest in him, too.
- 3. No, if Ed supervises Sally's work.

1. *We disagree.*

While a coach is prohibited from dating a player whom he coaches, there's a better answer.

2. *We disagree.*

Whether Sally shows interest in him is not the critical issue.

3. *We agree.*

All employees are prohibited from developing a romantic or sexual relationship with any person over whom they are in a position of direct, indirect or implied power. This includes persons whom one teaches, advises, coaches, counsels, mentors, evaluates or supervises in any way.

Sexual Harassment and Sexual Violence

6.1 Walter, the new coach of the women's softball team, touched one of his players inappropriately on the bus to an away game, during the game, and at a team picnic after the game. Which of those incidents provides grounds for discipline?

- 1. The incident at the game only.
- 2. The bus and game incidents only.
- 3. All three incidents.
- 4. None of the above, since Walter is a new coach.

1. *We disagree.*

This incident is grounds for discipline, but there's a better answer.

2. *We disagree.*

These incidents are grounds for discipline, but there's a better answer.

3. *We agree.*

Our policy applies on the athletic field and in all university-related settings, including bus trips and post-game social events.

4. *We disagree.*

Coaches and other staff may be disciplined for harassing conduct regardless of how long they have been at their job.

6.2 After practice, Linda, a student, showed John, the track coach, a bruise on her leg. She playfully suggested to John that the bruise would heal faster if he massaged her leg. What should John do?

- 1. Massage Linda's leg, since she suggested it.
- 2. Ask one of the other students to massage Linda's leg.
- 3. Tell Linda that making suggestive sexual comments is unwelcome and inappropriate.

1. *We disagree.*

Coaches and other staff should not touch students except as necessary to teach a particular skill — even if a student suggests it.

2. *We disagree.*

Players should not touch their teammates in a sexually suggestive manner, nor should coaches or other staff allow or encourage such conduct.

3. *We agree.*

Coaches and other staff should not touch students except as necessary to teach a particular skill, even if a student suggests it. In addition, coaches and other staff should not allow or encourage students to touch their teammates in a sexually suggestive manner.

Types of Harassment

7.1 Roy saw Dale, his colleague, crying on a bench. He sat down next to her and put his arm around her. "I know something that will make you feel better," he said, turning her head toward him and trying to kiss her. Could this be considered sexual violence?

- 1. No, if Roy is genuinely trying to make Dale feel better.
- 2. Maybe, if Roy is exploiting Dale's emotional weakness at that moment.
- 3. Yes, if Dale has been drinking so much alcohol that she feels powerless to resist.

1. *We disagree.*

Roy's intent is not the only factor to consider in assessing this situation.

2. *We agree.*

Taking advantage of someone at a moment of emotional stress or weakness may be considered sexual coercion, which is a form of sexual violence.

3. *We disagree.*

Whether Dale has had anything (let alone too much) to drink is not the critical issue.

7.2 For weeks, Matthew pestered his classmate Jenny to have sex with him. Finally, after he plied her with beers one night, she consented. The next day, Jenny mentioned the incident to Gwen, an academic advisor. Should Gwen inform the Title IX Coordinator?

- 1. Yes.
- 2. Maybe, if Jenny was incapable of giving consent due to alcohol use.
- 3. No, since Jenny had consented to having sex with Matthew.

1. *We agree.*

A steady onslaught of requests for sex can be considered sexual coercion, which is a form of sexual violence — especially when combined with alcohol or drug use. Gwen has a duty to report Jenny's complaint to the Title IX Coordinator for further handling.

2. *We disagree.*

Whether Jenny was incapable of giving consent is not the critical issue.

3. *We disagree.*

The fact that Jenny consented is not the critical issue.

Conduct To Be Avoided

8.1 One day, Janet wore a pair of high-cut shorts to chemistry lab. Without thinking, Bill, the instructor, playfully patted Janet's backside as she walked past him. Janet said angrily, "Stop it!" Did Bill do anything wrong?

- 1. Yes.
- 2. Not really, since he touched Janet without thinking.
- 3. No, given the way Janet was dressed.

1. *We agree.*

Faculty and staff should not touch students without their consent.

2. *We disagree.*

There's a better answer.

3. *We disagree.*

How Janet was dressed is not relevant to whether the contact was appropriate.

8.2 Ted received a sexually explicit photo by text message, and he couldn't wait to share it with his instructor and fellow classmates. He posted the photo on his class's Facebook page. What should Ted's instructor do?

- 1. Post a funny comment about the photo.
- 2. Tell Ted to remove the photo.
- 3. Ignore the photo.

1. *We disagree.*

The instructor should not joke with students about sexually explicit material.

2. *We agree.*

Instructors should not allow or encourage students to distribute sexually explicit material through social media, email or otherwise.

3. *We disagree.*

The instructor should not ignore the incident.

Responding to Complaints

11.1 Lakeesha told her professor that one of her classmates was "hitting on her" to an uncomfortable degree, but she didn't want to go into detail unless the professor promised not to tell anyone. To what extent can and should the professor keep Lakeesha's complaint confidential?

- 1. Totally.
- 2. Partially.
- 3. Not at all.

1. We disagree.

The professor should not promise Lakeesha total confidentiality.

2. We agree.

Complaints of harassment should be kept confidential to the extent possible, consistent with our organization's duty to investigate and take corrective action.

3. We disagree.

The professor can promise Lakeesha at least some degree of confidentiality.

11.2 Marco told Alex, the instructor of his literature class, that a few other students in the class were picking on him and calling him "gay." What should Alex do?

- 1. Call a class meeting to discuss Marco's complaint.
- 2. Talk to his supervisor about the situation.
- 3. Nothing, since boys can't sexually harass other boys.

1. We disagree.

Complaints of harassment should be kept confidential, to the extent Alex can do so consistently with our organization's duty to investigate and take corrective action.

2. We agree.

Alex should discuss Marco's complaint with his supervisor and/or the applicable Title IX coordinator.

3. We disagree.

Sexual harassment can occur between people of the same gender.

Avoiding Retaliation

13.1 Jessica reported her history professor to the Dean of Students for making sexually abusive comments during a lecture. When the professor learned of Jessica's complaint, he gave her an extra homework assignment. Was this a problem?

- 1. No, since it's up to the professor to decide what homework to assign.
- 2. Maybe, if Jessica had kept up with her regular homework assignments.
- 3. Yes.

1. We disagree.

While as a general rule it's up to the professor to decide what homework to assign, there are other considerations that the professor should take into account here.

2. We disagree.

Whether Jessica had kept up with her regular homework assignments is important, but there are other considerations that the professor should take into account here.

3. We agree.

By giving Jessica extra homework after finding out that she had made what appeared to be a good-faith complaint, the professor has engaged in retaliation. Retaliation is prohibited by law and our organization's policies.

13.2 Calvin complained to the soccer coach that his teammate Arturo kept "coming on to him" in an unwanted way. The coach confirmed Calvin's account of the incident and suspended both players for one game. This is an example of —

- 1. Proper handling of Calvin's complaint.
- 2. Retaliation against Calvin.
- 3. Retaliation against Arturo.

1. We disagree.

There's a better answer.

2. We agree.

Since the coach confirmed that Calvin had a good-faith basis for his complaint, it was improper for the coach to retaliate against Calvin by suspending him.

3. We disagree.

The coach disciplined Arturo by suspending him, but this was not an example of retaliation.

Maintaining a Respectful Environment

14.1 To understand what types of sexual discrimination, harassment and violence are prohibited in the educational environment, which of the following should you consider:

- 1. Federal laws.
- 2. State and local laws.
- 3. Our organization's anti-harassment policy.
- 4. All of the above.

1. We disagree.

While federal laws are an important reason for concern because they apply to all states in the U.S., there's a better answer.

2. We disagree.

While state and local laws can be an important reason for concern because they may prohibit more types of harassment than federal laws, there's a better answer.

3. We disagree.

While our policy is definitely important, there's a better answer.

4. We agree.

It's important to understand the types of sexual discrimination and harassment prohibited by federal, state and local laws, as well as our organization's policy.

14.2 Professor Love scheduled extra office hours for his philosophy class the evening before the final exam. What is the professor's most important responsibility in meeting with students that evening?

- 1. To give students a ride home afterwards.
- 2. To have at least one other faculty or staff member present.
- 3. To be sure the students are home by 10:00 p.m.

1. We disagree.

The professor does not have to give his students a ride home after evening office hours. In fact, he should take care not to ride alone in a car with any one student.

2. We agree.

It is important to have another faculty or staff member present while meeting with students during off-hours whenever possible.

3. *We disagree.*

While it's important that the students get a good night's sleep before their final exam, there's a better answer.

A staff member was about to make a sexual comment to a student but hesitated, unsure if it was appropriate. Which of the following questions should the staff member ask himself to determine if his comment is okay?

- 1. Would he say it if his children, spouse or parent were present?
- 2. Would he say it if he knew it would be published in the next day's campus newspaper?
- 3. Would he say it to a member of his own gender?
- 4. All of the above.

1. *We disagree.*

2. *We disagree.*

3. *We disagree.*

4. *We agree.*

The law and our organization's policy consider sexual discrimination or harassment to be serious matters. We hope you share our commitment to an educational environment free of discrimination and harassment in which all faculty, staff and students treat each other with respect and dignity.