SEXUAL HARASSMENT/SEXUAL ASSAULT
What You Don’t Know CAN Hurt You!

Office of Institutional Opportunity & Access
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KU’s Commitment

• The University is committed to a campus environment free from harassment.

• The University is committed to providing you the tools to report and prevent sexual harassment.

• The University is committed to ensuring that you know what you can do if you have been harassed.

• The University is committed to taking measures to protect members of the University community who have been unlawfully harassed.
Course Outcomes

Upon completion of this training, participants will:

• Know their individual rights and responsibilities.
• Be aware of the University’s anti-sexual harassment policy.
• Be apprised of relevant laws prohibiting sexual harassment.
• Recognize what constitutes sexual harassment.
• Understand procedures for reporting sexual harassment.
• Recognize and appropriately respond to observed or reported incidents of sexual harassment.
Relevant Laws:

**Title VII of the Civil Rights Act of 1964**

Applies to employers

- Prohibits Discrimination based on Race, National Origin, Color, Religion, **Gender/Sex**, **Retaliation**, and Pregnancy

**Title IX, Education Amendments of 1972**

Applies to educational institutions receiving federal financial assistance

- “No person . . . shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity...”

What Title IX does:

- Prohibits discrimination based on gender
- while Title VI prohibits **retaliation**
What is Sexual Harassment?

Unwelcome verbal or physical conduct of a sexual nature that is so severe, pervasive and objectively offensive that it substantially interferes with a person’s academic performance, employment, or equal opportunity to participate in or benefit from University programs or activities, or creates an intimidating, hostile or offensive working or educational environment.

Sexual Harassment may include but is not limited to:

• unwelcome efforts to develop a romantic or sexual relationship;
• unwelcome commentary about an individual’s body or sexual activities;
• threatening to engage in the commission of an unwelcome sexual act with another person;
• stalking or cyberstalking;
• engaging in indecent exposure; voyeurism, or other invasion of personal privacy;
• unwelcome physical touching or closeness;
• unwelcome jokes or teasing of a sexual nature or based upon gender or sex stereotypes; and
• sexual violence.

*Source: http://sexualharassment.ku.edu/
Types of Sexual Harassment

University policy, along with state and federal law, recognizes and prohibits two basic kinds of sexual harassment.

• **Quid pro quo** ("this for that") harassment occurs when sexual favors or activities are explicitly or implicitly demanded in exchange for job or educational benefits.

• **Hostile environment** sexual harassment occurs when unwelcome sexual conduct significantly interferes with school or work performance. It is behavior that creates an *intimidating, hostile, or offensive* learning or working environment.
Sexual Violence *is* Sexual Harassment

- Sexual violence is a form of sexual harassment
- “Sexual violence” means any physical act which is sexual in nature that is committed by force or *without the full and informed consent* of all persons involved.
- Sexual violence may include but is not limited to: rape, sexual assault, sexual battery, and sexual exploitation.
- Sexual violence can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship.
- Sexual violence can be committed by men or by women, and it can occur between people of the same or different sex.

*Source: http://sexualharassment.ku.edu/*
Examples of Sexual Violence

• The deliberate, unwelcome touching of a person’s intimate parts (including genitalia, groin, breast or buttocks, or clothing covering any of those areas);
• Using force to cause a person to touch his or her own or another person’s intimate parts; penetration (anal, oral or vaginal) by a penis, tongue, finger, or inanimate object;
• Taking sexual advantage of another person without consent, including causing or attempting to cause the incapacitation of another person;
• Causing the prostitution of another person;
• Allowing third parties to observe sexual acts;
• Engaging in voyeurism;
• Distributing intimate or sexual information about another person;
• Knowingly transmitting a sexually transmitted infection, including HIV, to another person; and/or
• Capturing or transmitting intimate or sexual utterances, sounds or images of another person.

*Source: http://sexualharassment.ku.edu/
What is consent?

**Consent is** agreeing to or giving permission to another person to do something.

- Consent can be communicated through words or actions that indicate a freely given agreement to engage in a particular act at the time it is performed.
- Consent must be specific to the act. Consent to one sexual act does not imply consent to another.

**Consent is not:**

- simple silence or failure to resist;
- the absence of a “no”;
- implied when one is asleep or unconscious, no matter what the nature of the relationship between the individuals.

Consent may be withdrawn **at any time**, even during the sexual act. If consent is withdrawn, the sexual act is **no longer consensual and must stop**.
What is Incapacity?

Incapacitation is a state in which someone cannot make rational, reasonable decisions because he or she lacks the capacity to give knowing consent (e.g. to understand the “who, what, when where, why, or how” of their sexual interaction).

Mental or physical incapacitation may result from mental disability, sleep, injury, illness, alcohol or drug ingestion, unconsciousness or blackout.

A person whose incapacity results from mental disability, sleep, involuntary physical restraint, excessive alcohol, or drug intoxication cannot give consent.
Physical Clues that someone may be *incapacitated and not able to give consent*:

- Slurred speech
- Bloodshot eyes
- The smell of alcohol on their breath
- Shaky equilibrium
- Vomiting
- Incoherent speech or inability to follow a conversation or thought
- Unusual behavior
- Unconsciousness

If you engage in sexual activity with someone who evidences signs of incapacity, you place yourself at risk of being accused of committing an act of sexual violence.
Why Don’t People Report Discrimination/Harassment?

Evidence suggests:

• Embarrassment
• Belief that the behavior will end if ignored
• Fear of losing one’s job or educational status
• Fear of retaliation
• Fear of being blamed for inviting the behavior
• Concern about not being believed
• Concern about being labeled as a troublemaker
• Fear of harmful rumors and loss of privacy
• Belief that nothing will be done about the problem
• Fear that the complaint process could be worse than the harassment
Reporting
Sexual Harassment/Sexual Violence

Employees: All KU employees are required to promptly report incidents of sexual harassment, including sexual violence.

Students, visitors, and non-employees are encouraged to report sexual harassment/sexual violence that they witness or that is reported to them.

How to report:

– Report sexual harassment immediately by contacting the KU Title IX Coordinator at 785-864-6414 or sexualharassment@ku.edu.
– If you are a victim of or witness to any criminal act being committed, including sexual violence, call 911 to report it to police.
– If you are a victim of sexual violence or have witnessed an act of sexual violence that has occurred but is not in progress and for which an immediate, emergency police response is not required, you can report it by contacting the KU Office of Public Safety at 785-864-5900. For more information on the KU Public Safety Office, please go to their web site at www.publicsafety.ku.edu.

You may also report such incidents to the KU Title IX Coordinator at 785-846-6414 or sexualharassment@ku.edu.
KU employees must take any incident or report of sexual harassment seriously and report it to IOA.

• If someone reports to you that they have been harassed or if you have witnessed the harassment—you have a duty to report it to IOA. The University may be deemed to be on notice of the sexual harassment/violence by virtue of the report to you or your witnessing the incident; therefore, you must report it to IOA.

• It is not acceptable to fail to report an incident of sexual harassment/violence simply because the person subjected to the conduct/harassment does not want it reported or confides in you in confidence.

• Even with an anonymous complaint the University may have an obligation to investigate.
The KU Complaint Resolution Process is initiated when a complaint is received by the KU Office of Institutional Opportunity & Access. In reporting a complaint to IOA it is helpful, but not required, to provide as much detail as possible when initiating a complaint.

Information requested as part of the complaint intake process may include:
- Name and contact information of the reporting party
- Name of the individual directly responsible for the harassment/conduct
- Date(s), time(s), and location of conduct/violation(s)
- Nature of the harassment (i.e. race, sex, disability, etc.)
- Detailed description of the specific conduct/harassment
- Copies of any documentation or correspondence related to the incident(s)
- Names and contact information of any witnesses with direct knowledge of the conduct/harassment
- Any additional relevant information
Following IOA’s receipt of a complaint, the process will continue with:

- **Notification**
  - The Complainant and Respondent are notified by IOA that the complaint has been received. *The Respondent’s notification will include a directive to refrain from engaging in any acts of retaliation.*
  - The parties are advised of the allegations, information about the University’s procedures relating to sexual harassment complaints, and the next steps in the process.
  - The investigator meets with the parties and witnesses to gather information.

*(more process steps on next slide)*
KU Complaint Resolution Process, cont’d

• **Investigation**
  – All documentation submitted by the Complainant and Respondent is reviewed.
  – Witnesses are interviewed and evidence obtained.
  – IOA handles discrimination and harassment complaints discreetly and confidentially, sharing information only with persons necessary to conduct the investigation or to act on the investigation’s findings.
  – IOA will work to complete all sexual harassment investigations within 60 days.

• **Findings**
  – The investigator will provide a written summary of the findings to the Respondent and the Complainant that includes a determination of whether University policies have been violated and recommendations for prompt remedial action to prevent any further incidents.
  – The Investigator will recommend remedial action and/or sanctions, if any, to the respondent’s supervisor or to the appropriate administrator, who will then determine the appropriate sanction.
Interim Measures Upon receiving a complaint, while the investigation is impending or in process, the University may take (and parties may request) interim measures to address/prevent reoccurrence of the conduct/harassment.

Examples of interim measures include:

- Imposition of a No-Contact order (a directive that the parties refrain from having contact with one another, directly or through proxies, whether in person or via electronic means);
- For students:  
  - Provision of academic support services, like tutoring;
  - Alterations to a student’s class schedule to ensure the complainant and alleged student harasser do not attend the same classes;
  - Moving the complainant or alleged student harasser to a different residence hall;
  - Provision of an escort to ensure the student can move safely between classes and University activities.
- For employees:  
  - Reassignment of job duties or supervisor;
  - Relocation of work site;
  - Administrative leave with pay.
KU Complaint Resolution Process, cont’d

If you are a Complainant or a Respondent, what opportunity will you be given to participate in the process?

• Parties may provide evidence to the investigator (documents, notes, emails, letters or anything else relevant to the facts).

• Parties may provide a written statement outlining the relevant facts or information they wish to be considered in the investigation.

• Parties may identify witnesses they would like to be interviewed.

• Parties may use the assistance of an advisor or attorney.

• Parties may request interim measures designed to eliminate the behavior/harassment.

• A party who has been the victim of a sexual assault may pursue criminal charges. Pursuing criminal charges may be in addition to filing with IOA. Filing with IOA is not required prior to filing criminal charges and you can elect to pursue both avenues—criminal complaint and IOA investigation.
Retaliation is Prohibited

• You may not retaliate against a student or employee because they have engaged in a “protected activity.”
• Retaliation includes any harassment, intimidation, threats, or adverse action against any complainant or third party because they participated in a complaint of Sexual Harassment.
• Retaliatory behavior is not limited to behavior by the accused and also covers behavior by his or her associates and third parties.
• The following are examples of “protected activities:”
  – Filing a complaint of discrimination
  – Participating in a discrimination investigation by being a witness
  – Reporting sexual harassment
  – Speaking out against illegal discrimination in the workforce
Scenario #1

Sally Smith is an assistant professor. Some of her male colleagues frequently engage in sexual banter and horseplay at the beginning of faculty meetings. They often share stories about their sexual exploits, joke about their sexual prowess, and at times make sexually suggestive gestures. Sally is very upset and uncomfortable with this conduct.

Test Your Knowledge
1. Is the behavior of Sally’s male colleagues unwelcome?
2. Is the conduct described above sexual harassment?
Answer to Scenario #1

1. Yes. Based on the information in the example, it appears the conduct is unwelcome.

2. Probably, yes. To constitute sexual harassment the conduct must not only be unwelcome, but it must also be severe and pervasive. The information contained in the example concerning the frequency and nature of the conduct suggests it is severe and pervasive.
Scenario #2

Assume the same facts as in scenario #1. In this scenario, however, the facts uncovered in the course of the investigation reveal that Sally has joined in the sexual banter and jokes in order to “fit in” with her colleagues.

Test Your Knowledge

1. Is the conduct of Sally’s colleagues unwelcome to Sally?

2. Another female faculty member in Sally’s department has been subjected to this conduct by Sally and her faculty colleagues. Has Sally sexually harassed her female colleague?
1. **No.** By joining in and participating in the conduct, Sally has demonstrated that the conduct is *not* unwelcome to her.

2. **Yes.** A harasser can be the same sex as the victim, so Sally could be found to have sexually harassed her female colleague by joining in the described conduct with her male colleagues.
Scenario #3

For the past couple of months, Shontelle, a new graduate assistant, has been subjected to hugging, fondling and offensive comments about her “curvaceous figure” several times by Professor Letch, her advisor. She has repeatedly tried to communicate her discomfort with this behavior by gently pushing him away, talking about how angry her fiancée would be if he knew about it, and leaving the room when possible.

Test Your Knowledge
1. Has Shontelle communicated to Professor Letch that his conduct is unwelcome?
Answer to Scenario #3

1. Yes.

— Although a direct statement to the harasser that the conduct is offensive and unacceptable clearly puts the harasser on notice that the conduct is unwelcome, such a direct statement is not required.

— In this instance, Professor Letch should have interpreted Shontelle’s statements and actions as expressing to him that his conduct was unwelcome.

— The conduct described was not only offensive to Shontelle, but it was of such a nature that an objective, reasonable person would find it to be offensive, severe and pervasive.

— Therefore, regardless of whether Professor Letch understood that his conduct was unwelcome and offensive, his conduct would be found to be sexual harassment.
Scenario #4

For the last several months, Professor Ogle has repeatedly made comments about Seth, her new graduate teaching assistant, by commenting frequently on his six-pack abs, tight buttocks, and dreamy eyes. She has frequently hugged him and patted him on the buttocks. Professor Ogle’s comments and actions have been observed by other graduate teaching assistants, by Professor Ogle’s departmental chair, and by students. One day Seth goes into his graduate advisor’s office and tells the advisor about Professor Ogle’s actions, but also tells the advisor that he is embarrassed and he does not want the advisor to tell anyone or do anything.

Test Your Knowledge

1. In this scenario who is required to report the harassment?
   - Seth’s fellow graduate teaching assistants who observed the conduct?
   - Professor Ogle’s departmental Chair?
   - Students who observed the conduct?
   - Seth’s graduate advisor?
As a graduate teaching assistant, Seth is both an employee of the University and a student; therefore, both Title VII and Title IX apply in this scenario.

— Professor Ogle’s Chair is a supervisor. Supervisors who have knowledge of sexual harassment must report it promptly. A supervisor’s failure to report sexual harassment exposes the university to liability and may result in disciplinary action against the Chair.

— Under Title IX, the University is liable for harassment if it can be shown it was deliberately indifferent. Seth’s graduate advisor’s knowledge of the harassment will be imputed to the university; therefore, the advisor must report the harassment.

— Seth’s fellow graduate teaching assistants are members of the University’s faculty as instructors. As such, they have a professional and legal obligation under Title IX not to allow harassment in the educational environment; therefore, they must report the harassment.

— The students who observed the harassment are under no obligation to report it, however, they may.

*To end harassment in our educational community it will take the cooperation and assistance of everyone.*
Sexual Harassment and Consenting Relationships

The University of Kansas policy

The consenting relationships policy addresses situations in which two persons have an apparently voluntary romantic or sexual relationship, but where a power differential exists because of their roles within the university. The policy states that:

- A faculty member should not initiate or accept such a relationship with a student over whom he or she has an evaluative role; and,
- A supervisor who has such a relationship with an individual over whom he or she has an evaluative responsibility must remove himself or herself from personnel decisions about that individual.

The University of Kansas strongly disapproves of consenting relationships where a professional power differential exists.

MANDATORY DISCLOSURE:
“A faculty member who fails to remove himself or herself from evaluation of the student’s work will be in violation of the Faculty Code of Conduct and subject to disciplinary proceedings.”

https://documents.ku.edu/policies/provost/ConsentingRelationships.htm
Strategies for Creating an Harassment-Free Environment

If you are a supervisor:

• Be a role model. You set the example for what is acceptable behavior in the workplace.
• Do not allow sexist remarks, sexual jokes, sexually suggestive images, or gestures of a sexual nature in the workplace.
• Periodically remind employees and students of the University policies and the University’s commitment to preventing and stopping sexual harassment.
• Be aware of what is occurring in your workplace and with your employees.
Strategies for Creating an Harassment-Free Environment as a Supervisor, cont’d

*If someone complains to you about sexual harassment or you observe it, you **SHOULD:***

– Take all reports or incidents seriously
– Listen, empathize, but don’t judge
– Respond to all concerns
– Document
– **Report the harassment to IOA. Do not delay.**

It is not your job to determine whether sexual harassment has occurred. Report to IOA and let IOA make the determination.
Strategies for Addressing Sexual Harassment

If you are being sexually harassed:

• **Report it to IOA.** You can contact IOA and be assured there will be follow-up to address the harassment.
• If you feel comfortable doing so, tell the harasser that the behavior is unwelcome and must stop.
• Educate yourself about KU’s written policies and how to report sexual harassment/sexual violence.
• Notify your immediate supervisor or the appropriate administrator.
Strategies for Addressing Sexual Harassment, cont’d

If someone tells you they are being sexually harassed, you **SHOULD NOT** use the following words and phrases:

– “It’s just **teasing**.” or “It’s **no big deal**.”
– The people in **our program would never** do...
– I know he/she **didn’t mean anything** like that.
– It’s **your fault** for dressing so provocatively.
– **You need to learn** to go along with these things.
– Just **ignore** it, I am sure they didn’t intend it to be offensive.
– No one’s filed a charge so **our hands are tied**.
KU Related Policy and Procedure Links

Applicable policies and procedures may be found at [www.sexualharassment.ku.edu](http://www.sexualharassment.ku.edu)

– Sexual Harassment Policy
  [https://documents.ku.edu/policies/IOA/Sexual_Harassment.htm](https://documents.ku.edu/policies/IOA/Sexual_Harassment.htm)

– Discrimination Complaint Resolution Process

– Nondiscrimination Policy
  [https://documents.ku.edu/policies/IOA/Nondiscrimination.htm](https://documents.ku.edu/policies/IOA/Nondiscrimination.htm)

– Consenting Relationships
  [https://documents.ku.edu/policies/provost/ConsentingRelationships.htm](https://documents.ku.edu/policies/provost/ConsentingRelationships.htm)
CONTACT INFORMATION

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We are HERE!

*Link to campus map: [http://www.maps.ku.edu/](http://www.maps.ku.edu/)
Thank you for your participation!

If you have any questions or would like to provide feedback, please contact the **Office of IOA**.

(785)864-6414