

What You Need to Know About Title IX



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What is Title IX?

- ◆ Title IX of the Education Amendments of 1972 is a federal law that prohibits discrimination on the basis of sex in education programs or activities operated by recipients of federal financial assistance.
- ◆ College of Southern Maryland is a recipient of federal financial assistance.



What Does Title IX Cover?



Title IX prohibits:

- 1. Sex Discrimination;**
- 2. Sexual Harassment** (sexual harassment is unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature);

Two Types of Sexual Harassment

1. Quid Pro Quo

- ▶ Employment or education decisions based on a request for sexual favors.
- ▶ “This for that.”



2. Hostile Environment

- ▶ Unwelcome conduct that
 - ▶ Unreasonably interferes with an employee’s ability to work or a student’s ability to learn, OR
 - ▶ Creates an intimidating, hostile, or offensive work or learning environment.

Examples of Sexual Harassment



(1) Direct or implied threats that submission to sexual advances will be a condition of advancement or promotion in any endeavor, including but not limited to employment, work status, promotion, or academic grades;

(2) Direct propositions of a sexual nature;

(3) Unnecessary touching, hugging, or brushing against another person's body;

(4) Sexually explicit statements, questions, or jokes; or

(5) Remarks of a sexual nature about a person's clothing or body, sexual activity, sexual orientation, gender identity, or previous sexual experience.

What Sexual Harassment Looks Like



- The person engaging in harassing behavior is often in a position of power, influence, or authority over the individual toward whom the conduct is directed.
- Questionable conduct is more likely to be harassment if it is repeated.
- Sexual harassment can also be based on power and intimidation as opposed to sexual interest.

Responding to Sexual Harassment

Sexual harassment is unlikely to stop until confronted. In some cases, this may mean informing the person directly that his or her actions are offensive and unwelcome. Other situations may require an informal talk from a supervisor, a formal reprimand, or a disciplinary hearing.



#1 True or False

Sexual harassment means bothering someone in sexual way.



True

Sexual harassment is any unwanted act or behavior that is sexual in nature that negatively affects the recipient's work or academic environment.

If the conduct is not sexual in nature, it may be another form of harassment.



#2 True or False

Sexual harassment must persist over a long period of time to be considered actionable.



False

A single incident can be considered sexual harassment. **Quid pro quo** harassment can occur in only one incident as can **hostile environment** sexual harassment if the single incident is severe enough.



#3 True or False

A consensual sexual relationship between two people cannot be deemed sexual harassment.



False

The issue is not one of *consent*. The issue is whether the advances are welcome. One may consent and yet not welcome the advances.

In situations involving two people of unequal status, a subordinate may be unable to refuse sexual advances due to the fear of adverse employment or education action.



#4 True or False

Sexual harassment can be perpetrated by a subordinate against his or her supervisor.



True

Even though instances of sexual harassment most often involve a power differential, it is not necessary for the harasser to have more power or authority than the victim. An subordinate employee can create a hostile environment for his or her supervisor.



#5 True or False

If you believe you have been sexually harassed, you need **not** personally confront the harasser to give him/her a chance to correct the behavior before reporting the conduct.



True



There is no requirement that a person who has been harassed personally confront the harasser with objections to the conduct.



#6 True or False

You make a sexually-charged joke at work. Your co-workers all seem to laugh and enjoy that humor. This does not constitute sexual harassment since it is not “unwelcome” conduct.



False

The test has two components:

1. victim's subjective standard, and
2. reasonable person's objective standard.

The victim could allege he or she laughed to avoid an adverse reaction from the rest of the co-workers or supervisor. In addition, the reasonable person test would consider the severity and pervasiveness of the joke(s).



Sexual Violence

3. Sexual Violence is a form of sexual harassment.

*Sexual violence includes same-sex sexual violence.



IT'S TIME ... TO TALK ABOUT IT!
Talk early, talk often. Prevent sexual violence.

Sexual Violence (continued)

Sexual violence includes the following:

- a) Rape,
- b) Sexual assault,
- c) Sexual battery,
- d) Sexual abuse,
- e) Sexual coercion; and



Retaliation

4. **Retaliation** = adverse action taken against an individual who, in good faith, exercises his or her rights under federal civil rights laws such as Title IX.



Interplay Between Title IX & the Clery Act

- The Clery Act is a federal law that requires institutions to disclose information about crime reported on and around their campuses.
- Violence Against Women Reauthorization Act of 2013 (VAWA) amended sections of the Clery Act.



Domestic Violence, Dating Violence, and Stalking

The 2013 VAWA Amendments include:

5. Domestic Violence;
6. Dating Violence; and
7. Stalking.

(“Sexual Misconduct”)



Domestic Violence

A violent act committed by a:

- Current or former spouse or intimate partner;
- Person sharing a child with the victim; or
- Person cohabitating with or has cohabitated with the victim as a spouse or intimate partner.



Dating Violence

A violent act committed by:

- A person who is or has been in a relationship of a romantic or intimate nature with the victim; and
- The existence of the relationship shall be determined based on:
 - i. length of the relationship
 - ii. type of relationship
 - iii. frequency of the interactions between the persons involved in the relationship.

Dating Violence may be...

Physical

- Hitting or slapping
- Biting
- Shoving
- Pinching
- Spanking
- Shaking or jerking
- Spitting
- Burning
- Restraining
- Chasing
- Forcing sex or sexual acts
- Touching in uncomfortable ways
- Pulling hair
- Stalking
- Driving recklessly
- Punching walls

Emotional

- Using personal information against partner
- Blaming partner
- Not accepting responsibility for one's own actions
- Playing mind games
- Using the "guilt trip"
- Demanding
- Constant interrogations
- Mocking body parts
- Controlling partner's activities
- Intense jealousy or rages
- Criticizing partner's looks
- Isolating from family/friends
- Checking up on partner
- Insulting partner's family/friends
- Taking personal items

Verbal

- Threatening to kill or to use
- Threatening to use violence
- Calling over and over
- Constant accusations of cheating
- Yelling
- Insulting
- Calling names
- Being sarcastic
- Making demeaning jokes
- Excessive swearing
- Mimicking
- Making degrading or negative comments
- Leaving vulgar messages
- Silent treatment
- Twisting partner's words
- Lying

Stalking

Engaging in a course of conduct (two or more acts):

- Directed at a specific person; and
- Causes a reasonable person to fear for his or her safety or the safety of others, or causes that person to suffer substantial emotional distress.



Consent

- Consent is informed, freely given, and mutually understood.
- No consent if:
 - 0 coercion, intimidation, threats, and/or physical force are used;
 - 0 a person is mentally or physically incapacitated, or impaired by **alcohol or drugs** such that the person cannot understand the fact, nature, or extent of the sexual situation; or
 - 0 a person is asleep or unconscious.



Consent (continued)

- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent can be withdrawn.
- Effective consent may not exist when there is a disparity in power.
 - Supervisor/employee
 - Faculty/student

GET CONSENT

“Sexual activity without consent is sexual assault.”



Who Has a Duty to Report Incidents of Sexual Misconduct?

A **responsible employee** is any employee who has the authority to take action to redress sexual misconduct, who has been given the duty to report to appropriate officials of an institution about incidents of sexual misconduct, or who an employee or student could reasonably believe has this authority or responsibility.

As a responsible employee,



YOU.

Responsible Employees

Responsible employees include:

- ✓ Directors
- ✓ Department Heads
- ✓ Managers
- ✓ Supervisors
- ✓ Administrative Staff
- ✓ Faculty



As a Responsible Employee, to Whom Do I Report?

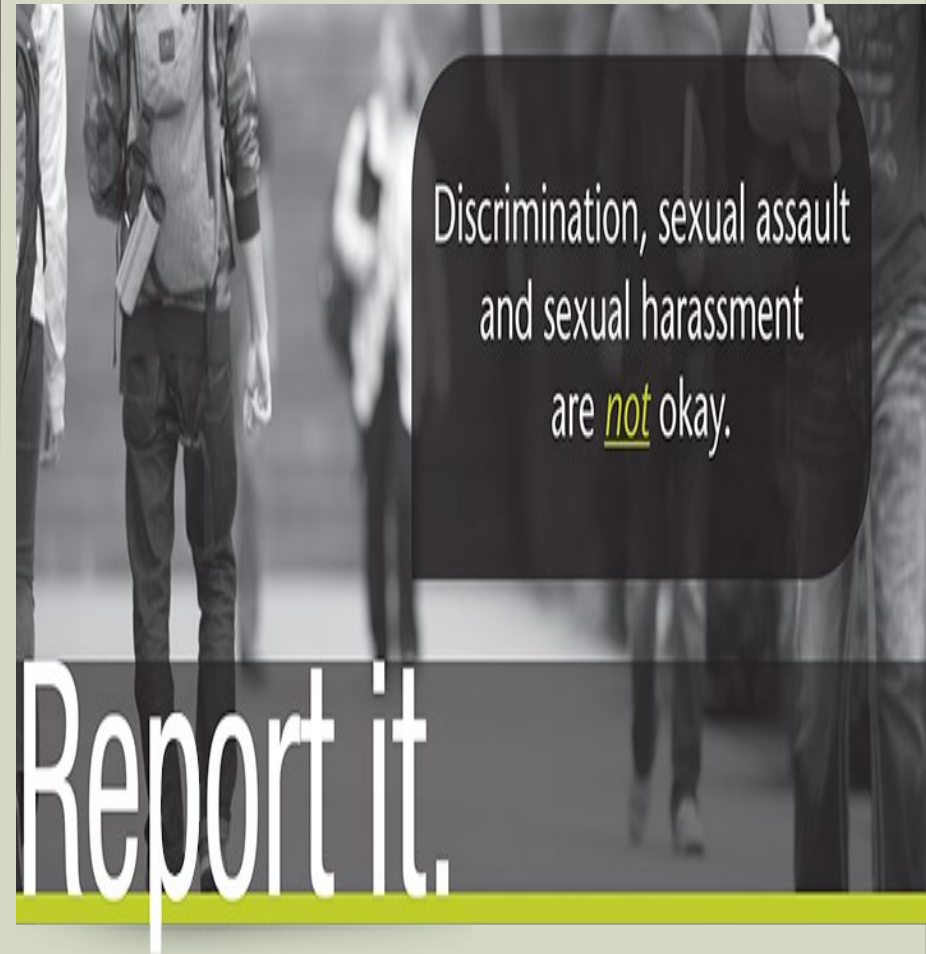


- **The Title IX Coordinator**
- When a responsible employee knows or reasonably should know of possible sexual misconduct, the Office of Civil Rights deems an institution to have notice of the sexual misconduct.



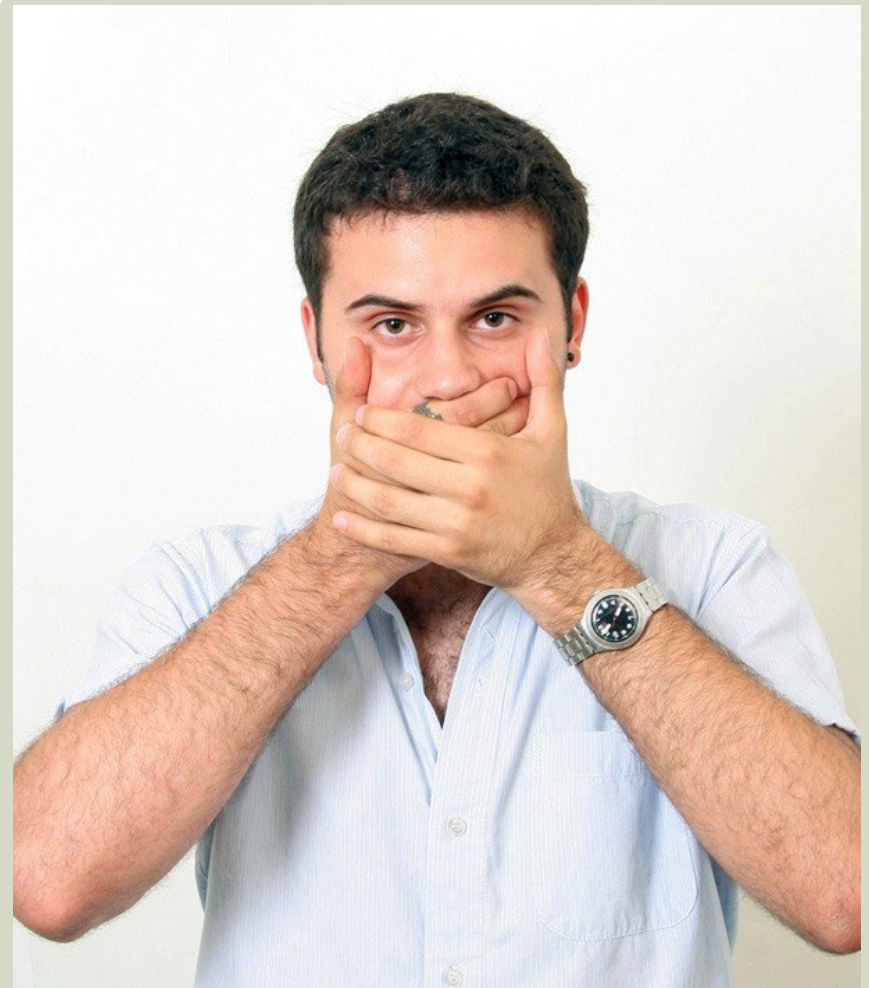
Reporting to the Title IX Coordinator

- Reporting to the Title IX Coordinator ensures that information regarding resources, reporting options, and employee and student rights is provided to the alleged target of sexual misconduct.



Responding to Incidents of Alleged Sexual Misconduct

- **Before** an employee or student reveals information that he or she may wish to keep confidential, a responsible employee should make every effort to ensure that the person understands...



Your Responsibilities

(i) Your obligation to report the names of the alleged perpetrator and the person involved in the alleged sexual misconduct, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX Coordinator;



Responsibilities

(ii) The person's option to request that the College maintain his or her confidentiality, which the Title IX Coordinator will consider; and

(iii) The person's ability to share the information confidentially with counseling, mental, health, or sexual assault-related services.



Information Reported to the Title IX Coordinator

- Name of the complainant, alleged perpetrator(s), and witnesses.
- Date, time, and location of the alleged incident.
- Any details stated by the complainant .
- Whether the complainant requested confidentiality.
- Whether the complainant requested no action be taken.
- Any other relevant facts.



Consequences for Failure to Report/Comply with Title IX

- Termination of all or part of CSM's federal funding. This includes grants, subsidies, and other program funds from the federal government.
- CSM may be sued by those seeking redress for violations of Title IX.
- Students or employees can bring lawsuits against CSM, which can result in millions of dollars in judgments or settlements.



Responding to Incidents of Sexual Misconduct:

1. Listen

- It is critical that you listen, are present, avoid judgment, and do not blame the person for what happened.
- If the person prefers no action be taken at that time, he/she should be informed that his/her preference will be shared with the Title IX Coordinator.



2. Understand Confusing Emotions

- The person may feel a variety of confusing emotions like panic, helplessness, guilt, shame, numbness, or denial.
- The person's flat or emotionless display immediately after an incident of sexual misconduct strikes many as being an inappropriate response. However, such a reaction is the result of natural painkillers released by the human body in response to physical trauma.



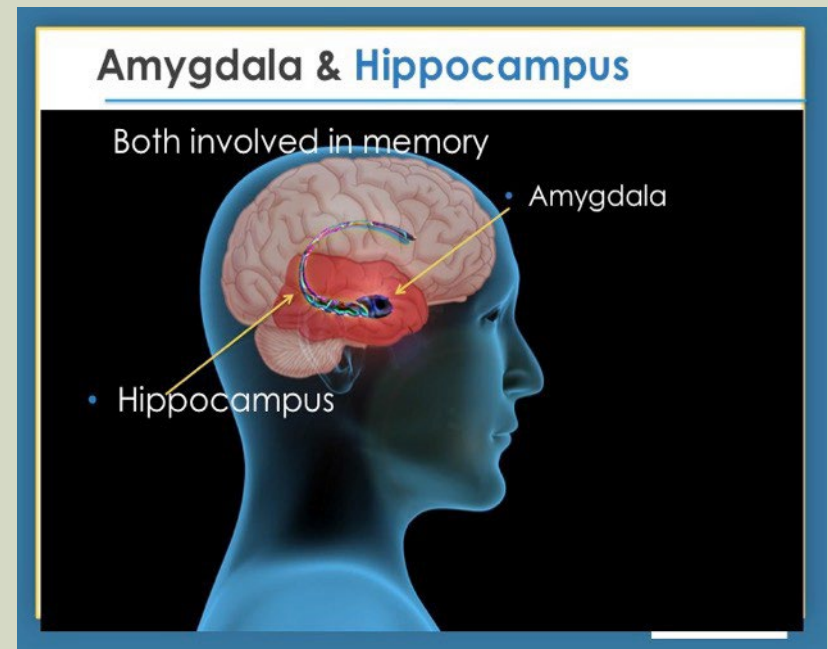
3. Recognize Secondary Trauma



Questioning the person's credibility and engaging in victim blaming discourage reporting sexual misconduct in the first place because the person doesn't want to subject him/herself to the secondary trauma of not being believed.

3. Recognize Secondary Trauma (continued)

- Research suggests that hesitancy or even inconsistency with which a person who reports an incident of sexual misconduct may be the result of the brain's natural response to physical trauma.
- The two structures in the brain responsible for memory creation are both highly sensitive to the flood of hormones released during an incident of sexual assault.



Reporting Options & Rights

- File a Complaint.
- https://cm.maxient.com/reportingform.php?CollegeofSouthernMD&layout_id=3
- File a criminal complaint with CSM Police and/or Charles County Sheriffs Office.
- Refer to the CSM College's Nondiscrimination, Harassment, and Sexual Assault Policy (available on Web page).
- <https://www.csmd.edu/about/policies/policy-on-sexual-misconduct-relationships-violence-stalking-and-retaliation.html>