

Terms and Definitions

Warning: These definitions pair with legal and policy language and include sensitive content which might be triggering or traumatizing to some individuals.

Actual Knowledge

Actual Knowledge under Title IX is notice of sexual harassment or allegations of sexual harassment to a school's Title IX Coordinator or an Official with Authority. At Sierra College, individuals identified as supervisors under California's Fair Employment and Housing Act are "Officials with Authority," and they must disclose incidents of sexual harassment/sexual assault/dating violence/domestic violence or stalking to the Title IX Coordinator.

Adverse Action

Adverse Action means an action that has a substantial and material adverse effect on the Complainant's ability to participate in a college program or activity free from Discrimination, Harassment, or Retaliation. Trivial actions or conduct not reasonably likely to do more than anger or upset a Complainant does not constitute an Adverse Action.

Advisor

The Complainant and the Respondent may each elect to be accompanied by an Advisor to any meeting or interview regarding allegations of Title IX or District policies. The role of the Advisor is to provide support and assistance in understanding and navigating the Title IX grievance process. The Advisor may be anyone, including a union representative from the Complainant's or Respondent's collective bargaining unit or, an attorney, or, in the case of the Complainant, a Campus Victim's Advocate, provided the Advisor is not a person with information relevant to the allegations who may be interviewed by the Investigator during the investigation. The Advisor may not answer questions regarding the investigation's subject matter for the Complainant or the Respondent. However, the Advisor may observe and consult with the Complainant or Respondent and take appropriate action to ensure that the investigation does not violate applicable laws, policies, or collective bargaining agreements.

In the context of a Title IX Grievance hearing, which does not allow direct examination by the parties, each party's advisor may ask the other party and any witnesses questions that are relevant to the Title IX complaint.

Complainant

Complainant means an individual who is eligible to file a Complaint to report a violation of Title IX or District policies. A Complainant includes any person who is reported by someone else to be the subject of conduct prohibited by Title IX or District policies. A Complainant may also be referred to as a party to the Complaint.

Confidential Resources for Sierra College

Title IX allows colleges to exempt certain employees from reporting to the Title IX Coordinator to minimize barriers that may inhibit students from sharing personal information. Sierra College has exempted the following positions from reporting. The Title IX Campus Advocate Counselors, and Licensed Therapists working in Health Services, and the Dean of Student Services-Counseling.

Title IX Campus Advocates work within professional ethical guidelines, and applicable federal and state laws such as FERPA and California Mandated Reporting Requirements. Generally, communication between the student and the Campus Advocates is private and may only be disclosed with written consent.

Exceptions to confidentiality include:

- If there is a likelihood of harm to self or others
- If a minor (under 18) has been or may be abused or neglected
- If an elderly or disabled person has been or may be abused, neglected, or subject to financial exploitation
- If records are requested by a subpoena or court order
- Advocates provide aggregate statistical reports to the College; no personally identifying information is included.

Consent

A sexual “affirmative” agreeing to sexual activity between the participants. There is no coercion or intimidation. It is the responsibility of each person involved in the sexual activity to ensure that they have affirmative consent of the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not imply consent. Silence does not imply consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time.

The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent. Consent cannot be given when a person is asleep, unconscious, or incapacitated. Incapacitation can be due to the influence of drugs, alcohol, or medication, to the extent that they cannot understand the fact, nature, or extent of the sexual activity. Nor can consent be given if a person is unable to communicate due to a mental or physical condition. Likewise, if you are a minor (under 18), you are unable to give legal consent for sexual intercourse.

Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Decision-Maker

The person or group of people who will oversee the Title IX grievance process live hearing and make a determination of responsibility or no responsibility for the complaint.

Domestic Violence

Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Gender

Gender means sex and includes a person's gender identity and gender expression. Gender expression means a person's gender-related appearance and behavior whether, or not stereotypically associated with the person's assigned sex at birth. Sex includes but is not limited to pregnancy, childbirth, breastfeeding, or associated medical condition(s). They are Protected Statuses.

Gender-based Discrimination

Discrimination based on a person's gender or sex.

Gender-based Harassment

Verbal, nonverbal, graphic, or physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation or gender identity, but not involving conduct of a sexual nature, when such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from education or work programs or activities.

Harassment

Harassment means unwelcome conduct, based on the Complainant's Protected Status, that is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as limiting their ability to participate in or benefit from the services, activities or opportunities offered by the College.

Investigator

Investigator means the person tasked by the College with conducting an impartial investigation of a Complaint. All Investigators shall receive annual training regarding such issues as the laws governing Discrimination, Harassment and Retaliation; Title IX and VAWA/Campus SaVE Act; as well as other related state and federal laws prohibiting Discrimination, Harassment and Retaliation based on Gender or Sex, including Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking; Complainant, Respondent, Employee, and witness privacy rights; and the Family Educational Rights and Privacy Act of 1974 (FERPA). For matters involving Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic

Violence or Stalking, the Investigator shall also receive annual training on how to conduct an investigation process that protects the safety of the Complainant(s) and the University community.

Non-Consensual Sexual Contact

Touching of intimate body parts such as genitalia, groin, breast, buttocks, or mouth or any clothing covering them, without consent; the removal of another person's clothes without consent; touching a person with one's own intimate body parts without consent; compelling another to touch one's intimate body parts without consent or any other intentional sexual touching with any object by a person upon another person, without consent.

Preponderance of the Evidence

Preponderance of the Evidence means the greater weight of the evidence, i.e., that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side. The Preponderance of the Evidence is the applicable standard for demonstrating facts and reaching conclusions in an investigation conducted pursuant to Sierra College Administrative Procedures 3434 and 3435, and the District's Title IX grievance process.

Protected Status

Individuals are protected by Federal and State Laws and District policies from discrimination or harassment based on Protected Status, which includes Age, Disability, Gender, Genetic Information, Gender Identity or Expression, Nationality, Marital Status, Race, color or Ethnicity, Religion, Sexual Orientation, and Veteran or Military Status.

Rape

Under California Penal Code 261, rape is summarized as sexual intercourse against an individual's will accomplished by force or threats of bodily injury; or fear that the victim or another will be injured if the victim does not submit to the intercourse; or where the victim is incapable of giving consent or prevented from resisting due to being intoxicated, drugged, or unconscious or asleep.

Sextortion

Sexual exploitation in which abuse of power is the means of coercion, as well as to the category of sexual exploitation in which threatened release of sexual images or information is the means of coercion.

Sexual Assault

Sexual assault occurs when physical, sexual activity is engaged without the consent of the other person or when the other person is unable to consent to the activity. The activity or conduct may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication).

Sexual Harassment

Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical contact of a sexual nature. Sexual harassment is conduct that explicitly or implicitly affects a person's employment or education, interferes with a person's work or educational performance, or creates an environment such that a reasonable person would find the conduct intimidating, hostile, or offensive.

Sexual harassment may include incidents between any members of the District community, including faculty and other academic appointees, staff, students, student employees, coaches, interns, and non-student or non-employee participants in District programs. Sexual harassment may occur in hierarchical relationships, between peers or between individuals of the same sex. Some examples of harassing behavior include, but are not limited to:

- Insults, name-calling, and offensive jokes
- Intimidating words or actions
- Unwelcome or inappropriate touching
- Sexually suggestive remarks or gestures
- Unsolicited pornographic materials
- Obscene messages (via text or computer)
- Pressure for sexual activity or a date
- Sexual assault and rape

Sexual Harassment under Title IX

Sexual Harassment under Title IX is misconduct on the base of sex, which jeopardizes equal access to education, including:

- A District employee conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct (Quid pro quo).
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity; or
- "Sexual assault" as defined by the Clery Act, or "dating violence," or "domestic violence," or "stalking," as defined in the Violence Against Women Act (VAWA).

Sexual Misconduct

Sexual misconduct includes a range of behavior used to obtain sexual gratification against another's will or at the expense of another. Sexual misconduct includes sexual harassment, sexual assault, and any conduct of a sexual nature that is without consent or has the effect of threatening or intimidating the person against whom such conduct is directed.

Sexual Violence

Sexual violence is defined as physical, sexual acts engaged without the consent of the other person or when the other person is unable to consent to the activity. Sexual violence includes sexual assault, rape, battery, sexual coercion, domestic violence, dating violence, and stalking.

Stalking

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress.

For the purposes of this definition: Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

Supportive Measures

Under Title IX, Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.