

Sex Discrimination and Harassment Prevention

Presented by the Office of Equal Opportunity Programs

Office of Equal Opportunity Programs

- ▶ Our offices houses the College's EEO Officer, ADA Coordinator, and Title IX Coordinator
- ▶ We are responsible for campus-wide compliance with federal and State non-discrimination laws, including Title IX and Title VII
- ▶ We respond to complaints of discrimination, including sexual harassment and sexual violence from all members of the campus community (i.e. students, faculty & staff)
- ▶ We assist with appropriate interim measures and take steps to prevent retaliation
- ▶ We investigate reports and formal complaints of sexual misconduct and discrimination
- ▶ We provide trainings, such as this one, on our non-discrimination policy and related policy to the campus community to ensure our campus community is aware of their rights and responsibilities.

Why This Training and Our Nondiscrimination Policies Are Important

- ▶ It protects the members of our campus community
- ▶ It promotes a positive and inclusive culture where we can work and study together respectfully
- ▶ It embodies our code of conduct and community values
- ▶ It the reduces legal and financial risk to you and the College
- ▶ It's the right thing to do!

Course Objectives

- ▶ Obtain a better understanding of what type of conduct is prohibited and may constitute discrimination or harassment on the basis of sex, sexual orientation or gender identity and expression
- ▶ Understand your rights and responsibilities
- ▶ Understand campus resources available to help you, your colleagues, and our students
- ▶ To empower members of the campus community to safely address and prevent sex discrimination and other forms of sexual misconduct

Our College Policy Prohibits Discrimination and Harassment

College policy prohibits any member of the College community to discriminate against or harass students or employees, or applicants for admission or employment, based on these protected traits:

- + Race
- + Color
- + Religion
- + Sex
- + Pregnancy, childbirth and related medical condition, including lactation
- + National Origin
- + Veteran Status
- + Sexual Orientation
- + Gender Identity and Expression
- + Age
- + Disability
- + Genetic Information

Title IX of the Education Amendments of 1972

“No person in the United States 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 receiving Federal financial assistance.”

- Title IX is a federal civil rights law that prohibits sex-based discrimination.
- Sexual harassment and sexual violence are forms of discrimination and strictly prohibited by federal law as well as College policy.

Title IX of the Education Amendments of 1972

- Title IX was co-authored by Patsy Mink, a gifted student, who was rejected from 20 medical schools due to her sex.
- She pursued a career in politics instead and, in 1965, became the first woman of color elected to congress.
- Patsy Mink dedicated her career to ending discrimination in education and, upon her death in 2002, Title IX was renamed “The Patsy Mink Equal Opportunity in Education Act” in her honor.



“We have to build things that we want to see accomplished, in life and in our country, based on our own personal experiences...To make sure that others...do not have to suffer the same discrimination.” - Patsy Takemoto Mink

Title VII of the Civil Rights Act of 1964

- ▶ Additionally, Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, sex, or national origin in employment.
- ▶ Federal law and college policy prohibit discrimination and harassment in employment.

Discrimination Based on Sex is Prohibited in:

Employment

- ▶ Assignments
- ▶ Benefits
- ▶ Compensation
- ▶ Demotions
- ▶ Discipline
- ▶ Interviewing and Selection
- ▶ Job Transfers
- ▶ Promotions
- ▶ Terminations
- ▶ Training

Academic

- ▶ Academic/Educational Activities
- ▶ Academic/Educational Programs
- ▶ Admissions
- ▶ Benefits
- ▶ Discipline
- ▶ Expulsions
- ▶ Extracurricular Activities
- ▶ Housing
- ▶ Training

Sex Based Discrimination: What is it?

- ▶ Treating someone less favorably because of sex, pregnancy, sexual orientation, gender identity or expression
- ▶ Taking adverse actions against another (i.e. failing to hire or promote) and/or harassing treatment based on stereotypes or assumptions made about sex-based protected traits
- ▶ Implementing neutral rules or policies that apply to everyone, but have a disparate negative impact on people because of their sex or gender
- ▶ Failing to provide reasonable accommodations because of pregnancy, childbirth and related medical condition, including lactation

Sexual and Gender Harassment

▶ Two Main Types:

■ Quid Pro Quo

- Literally “This for that”

■ Hostile Environment

- Generally, when unwelcome sexual conduct reaches a level that it interferes with a reasonable person’s ability to work or study in that environment.



Quid Pro Quo

- ▶ Submission to unwanted conduct is either explicitly or implicitly a term or condition of an individual's employment or access to or the enjoyment of an educational benefit.
- ▶ Submission to or rejection of unwelcome conduct is used as the basis for employment, academic or educational decisions
- ▶ Person in power conditions employment or academic decisions on whether the person accepts or rejects unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature.

Hostile Environment

- ▶ Offensive unwelcome sexual conduct that is severe or pervasive enough that a reasonable person would find that it:
 - Has the purpose or effect of unreasonably interfering with an individual's work or academic performance or other educational benefit; or
 - Creates an intimidating, hostile, or offensive working, learning, or living environment
 - Hostile environments can be created from extremely severe, isolated actions as well as subtle conduct that continues over time.

Sex Harassment Is Not . . .

- ▶ Isolated comments:
 - *Paying someone a general compliment*
 - *Asking about another's well-being*
 - *Asking someone on a date*
- ▶ Offensive behavior unrelated to sex

What is Sexual Misconduct?

- ▶ Sexual misconduct is an umbrella term that is used to refer to various forms of sex based discrimination in addition to sexual harassment.
- ▶ Sexual misconduct includes verbal sexual harassment, sexual violence, and the range of sexual conduct in-between.

Forms of Sexual Misconduct

Sexual misconduct can take many forms including:

- Verbal
- Visual
- Physical
- Or a combination of all three



Examples of Verbal Conduct

- Vulgarities and sexual profanity
- Sex-related nicknames (honey, baby, sweetie, hottie, fox...)
- Sexual innuendos, pick up lines, propositions
- Homophobic slurs, gay/lesbian jokes
- Intimate remarks about one's body or appearance
- Repeated requests for dates or romantic advances
- Questions or spreading rumors about one's sexual behavior, history, orientation

Examples of Visual Conduct

- Leering or staring at another's body
- Crude examples of intimate gestures (e.g., winking, biting, or licking lips)
- Exposing or touching intimate parts of oneself
- Sexually suggestive objects, pictures, cartoons, calendars
- Sexual emails, text messages, videos, internet content
- Other sexual written or graphic material

Examples of Physical Conduct

- Intimate touching
- Unwelcome hugs, kisses, back rubs, etc.
- Other groping, grabbing, patting
- “Accidental” brushing of intimate body parts
- Physical aggression, intimidation, hostility, or threats based on sex

Other Prohibited Offenses: Sexual Violence, Interpersonal Violence, and Stalking

- Sexual assault, including rape and non-consensual sexual touching
- Domestic violence
- Dating/relationship violence
- Stalking

*State and federal law definitions for these offenses, and the definition of consent, are provided in the College's Annual Security and Fire Safety Report.

Who is Protected From Sexual Misconduct

- ▶ It's important to remember that both men and women can be the victims of sexual misconduct and sexual misconduct can occur between two members of the same sex.
- ▶ Sexual misconduct can occur between two employees, supervisor to employee, employee to supervisor or between employees and outside parties like contractors or visitors to campus.
- ▶ What one person doesn't find offensive may offend another person. Victims of sexual misconduct can include not just the subjects of the behavior but others affected by it.

Discrimination and Gender Identity, Expression, and Sexual Orientation

- ▶ The College prohibits discrimination on the basis of gender identity, or expression, and sexual orientation
- ▶ Prohibited acts of discrimination could include:
 - Refusing to hire, or promote, someone due to their sexual orientation
 - Repeatedly and deliberately misgendering a member of the campus community
 - Making repeated mocking jokes or questions about someone's gender identity or sexual orientation even after being asked to stop



An Example: Price Waterhouse v. Hopkins

- ▶ In the 1980s, Anne Hopkins was a star employee of accounting firm Price Waterhouse. However, Anne wasn't promoted to partner.
- ▶ Many male co-workers at the firm said that they wouldn't feel comfortable working for her because they didn't think she was lady-like enough. A partner suggested that, to improve her odds of a promotion, she should "walk more femininely, dress more femininely, wear make-up, have her hair styled, and wear jewelry."
- ▶ Other partners commented that she "overcompensated for being a woman," she should take "a course at charm school," and others noted that they were uncomfortable with her swearing "because it's a lady using foul language."
- ▶ This case illustrates that making employment decisions based upon how traditionally masculine or feminine someone acts is prohibited sex stereotyping.

["Jimmy" story - employee transitioning
at work. 1h 51m-154 58 seconds]

Pregnancy

- ▶ Be aware that the College prohibits discrimination based on pregnancy, childbirth, related medical conditions, including but not limited, lactation.
- ▶ Examples of pregnancy, or childbirth, related discrimination can include:
 - Failing to hire an otherwise qualified applicant for employment based solely on the fact they are pregnant.
 - Firing an employee when they become pregnant due to the pregnancy.
 - Failing to provide reasonable accommodations like modifying work schedules, offering more frequent breaks, or providing a private space for lactation.
 - Unilaterally reassigning a pregnant employee to another position because they are pregnant.

South Carolina Pregnancy Accommodations Act

- ▶ Passed in 2018, this State legislation requires employers to treat pregnancy as it would any other medical condition or accommodation and defines “sex” to include pregnancy, childbirth, or related medical conditions, including but not limited to lactation,
- ▶ Said the state General Assembly *“many pregnant women are single mothers or the primary breadwinners for their families; if they lose their jobs then the whole family will suffer. This is not an outcome that families can afford in today’s difficult economy.”*



Consensual Relationships

- ▶ No faculty or staff member shall have an amorous relationship (consensual or otherwise) with a student enrolled in a course being taught by the faculty member or whose work is being supervised, evaluated, or otherwise similarly impacted by the faculty or staff member.
- ▶ The College highly discourages consensual romantic relationships at work when one party has power over another (ex. One person is supervising the other).
- ▶ Remember quid pro quo sexual harassment?

Power Differentials in Relationships

VIDEO CLIP, POWER DIFFERENTIALS IN RELATIONSHIPS

Around 36m to 38m 40s

Tips to Prevent Sexual Misconduct

- ▶ If you're unsure about behavior err on the side of caution: don't do it, don't say it, don't allow it.
- ▶ Treat everyone the same and with respect
- ▶ Use extreme caution when doing things like sharing emails, web content or social media posts, when complimenting another employee on their physical appearance, and when making jokes that might offend someone.
- ▶ Remember the newspaper rule
- ▶ Consider bystander intervention

What Not To Do

- ▶ Don't ignore offensive or unwanted conduct if you want it to stop
- ▶ Don't delay in reporting your concerns
- ▶ Don't make assumptions about people or their abilities based solely on factors such as sex, sexual orientation or gender identity and expression

Responding to Sexual Misconduct

- ▶ If you witness, or become aware of misconduct, know your **reporting obligations**
- ▶ If you experience sexual misconduct: be aware of your **options and resources**
- ▶ Prevent situations before they escalate, or address problems in the short term with **bystander intervention**

Remember: The College expects that if you become aware of possible discrimination, including sexual misconduct, that you will report it by contacting the Office of Equal Opportunity Programs

Prevention and Bystander Intervention

- ▶ Becoming an upstander rather than a bystander. Intervening *before* situations occur is a powerful tool to prevent sexual misconduct.
- ▶ Remember the 3 D's of bystander intervention:
 - **Distract:** a short term strategy is to distract someone from the problematic behavior, say, by changing the subject
 - **Delegate:** ask another person to intervene
 - **Direct:** directly address the behavior, where you feel comfortable, and say its not ok

Reporting Obligations

- ▶ Most employees of the College of Charleston are *not* confidential resources and are expected to report potential sexual harassment or other sexual misconduct.
- ▶ If you suspect someone may be about to disclose sexual harassment or other sexual misconduct to you, you may want to make clear that you're not confidential and offer to refer them to a confidential resource if they prefer, such as CASAS, the Office of Victim Services, Student Health Services, or the Employee Assistance Program.
- ▶ **However, once you become aware of possible discrimination, including sexual misconduct, the College expects that you will report it.**

What To Do if you Experience Sexual Misconduct

- ▶ Contact the Office of Equal Opportunity Programs at 843-953-5754 if you'd like to make a report to the College
- ▶ For minor concerns, and only if you feel comfortable doing so, make clear to the person that the behavior is unwanted.
- ▶ Do not ignore offensive behavior if you want the behavior to stop!
- ▶ Students can access confidential assistance from the Office of Victim Services, CASAS, and Student Health Services.
- ▶ Employees can access confidential assistance from the Employee Assistance Program.

Retaliation Is Strictly Prohibited

- ▶ The College ***prohibits adverse treatment*** of employees and students for exercising their rights under the non-discrimination policy
- ▶ Retaliation against any employee or student for filing a complaint or participating in an investigation in good faith is ***strictly prohibited***
- ▶ Any good faith report of discrimination and/or harassment, ***experienced or observed***, should be made without fear of retaliation
- ▶ Violators will be subject to immediate consideration of disciplinary action that could include ***separation from the College***

Remember: It's On Us

- ▶ The promotion and protection of a discrimination-free environment is the responsibility of every member of the College Community.
- ▶ Do your part to create an inclusive atmosphere on campus.
- ▶ Together, we affirm, embrace and hold ourselves accountable to our College's core values of:
 - +Integrity
 - +Community
 - +Academic Excellence
 - +Respect for the Individual Student
 - +Diversity
 - +Liberal Arts Education
 - +Public Mission

Find Us and Our Policies Here



- ▶ eop@cofc.edu
- ▶ (843) 953-5754
- ▶ Robert Scott Small Building, Suite 115