

IX. PROHIBITED CONDUCT UNDER THIS POLICY[7]

Conduct under this Policy is prohibited regardless of the sex, sexual orientation and/or gender identity/expression of the Complainant or Respondent. Prohibited Conduct includes the following specifically defined forms of behavior: Discrimination, Discriminatory Harassment, Sexual or Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Intimate Partner Violence, Stalking, Complicity, and Retaliation.

A. DISCRIMINATION

Discrimination is any unlawful distinction, preference, or detriment to an individual that is based upon an individual's race, color, ethnicity, religious creed, age, sex, marital status, national origin, ancestry, sexual orientation, genetic information, physical or mental disabilities (including learning disabilities, intellectual disabilities, past/present history of a mental disorder), veteran status, prior conviction of a crime, workplace hazards to reproductive systems, gender identity or expression, or membership in other protected classes set forth in state or federal law and that: (1) excludes an individual from participation; (2) denies the individual the benefits of; (3) treats the individual differently; or (4) otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a University program or activity.

Discrimination includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities. The University of Connecticut is committed to achieving equal educational and employment opportunity and full participation for persons with disabilities. See Policy Statement: People with Disabilities (<http://policy.uconn.edu/2011/05/24/people-with-disabilities-policy-statement/>).

B. DISCRIMINATORY HARASSMENT

Discriminatory Harassment consists of verbal, physical, electronic, or other conduct based upon an individual's race, color, ethnicity, religious creed, age, sex, marital status, national origin, ancestry, sexual orientation, genetic information, physical or mental disabilities (including learning disabilities, intellectual disability, past/present history of a mental disorder), veteran status, prior conviction of a crime, workplace hazards to reproductive systems, gender identity or expression, or membership in other protected classes set forth in state or federal law that interferes with that individual's educational or employment opportunities, participation in a University program or activity, or receipt of legitimately-requested services or benefits. Such conduct is a violation of this Policy when the circumstances demonstrate the existence of either *Hostile Environment Harassment* or *Quid Pro Quo Harassment*, as defined below.

Hostile Environment Harassment: Discriminatory Harassment that is so severe, persistent or pervasive that it unreasonably interferes with, limits, deprives, or alters the conditions of education (e.g., admission, academic standing, grades, assignment); employment (e.g., hiring, advancement, assignment); or participation in a University program or activity (e.g., campus housing, official University list-servs or other University-sponsored platforms), when viewed from both a subjective and objective perspective.

Quid Pro Quo Harassment: Discriminatory Harassment where submission to or rejection of unwelcome conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's education (e.g., admission, academic standing, grades, assignment); employment (e.g., hiring, advancement, assignment); or participation in a University program or activity (e.g., campus housing).

Discriminatory Harassment may take many forms, including verbal acts, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be humiliating or physically threatening.

C. SEXUAL OR GENDER-BASED HARASSMENT

Sexual Harassment is unwelcome conduct of a sexual nature. This may include, but is not limited to, unwanted sexual advances, requests for sexual favors, inappropriate touching, acts of sexual violence, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, written or otherwise. Such conduct is a violation of this Policy when the conditions for Hostile Environment Harassment or Quid Pro Quo Harassment are present, as defined above.

Gender-Based Harassment includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, written or otherwise, even if the acts do not involve conduct of a sexual nature. Such conduct is a violation of this Policy when the conditions for Hostile Environment Harassment or Quid Pro Quo Harassment are present, as defined above.

Title IX Sexual Harassment[8] includes conduct that occurs on the basis of sex in a University education program or activity in the United States that satisfies one or more of the following:

- An employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (i.e., 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 an education program or activity (i.e., hostile environment); or
- Sexual assault (as defined by Clery Act), or "dating violence," "domestic violence," and "stalking" (as defined by Violence Against Women Act).

D. SEXUAL ASSAULT

Sexual Assault consists of (1) Sexual Contact and/or (2) Sexual Intercourse that occurs without (3) Consent.

1. **Sexual Contact** (or attempts to commit) is the intentional touching of another person's intimate body parts, clothed or unclothed, if that intentional touching can reasonably be construed as having the intent or purpose of obtaining sexual arousal or gratification.
2. **Sexual Intercourse** (or attempts to commit) is any penetration, however slight, of a bodily orifice with any object(s) or body part. Sexual Intercourse includes vaginal or anal penetration by a penis, object, tongue or finger, or any contact between the mouth of one person and the genitalia of another person.
3. **Consent** is an understandable exchange of affirmative words or actions, which indicate a willingness to participate in mutually agreed upon sexual activity. Consent must be informed, freely and actively given. It is the responsibility of the initiator to obtain clear and affirmative responses at each stage of sexual involvement. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. The lack of a negative response is not consent. An individual who is incapacitated by alcohol and/or other drugs both voluntarily or involuntarily consumed may not give consent. Past consent of sexual activity does not imply ongoing future consent.

Consent cannot be given if any of the following are present: A. Force, B. Coercion or C. Incapacitation.

- A. **Force** is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and/or coercion that overcome resistance.
- B. **Coercion** is unreasonable pressure for sexual activity. Coercion is more than an effort to persuade, entice, or attract another person to have sex. Conduct does not constitute coercion unless it wrongfully impairs an individual's freedom of will to choose whether to participate in the sexual activity.
- C. **Incapacitation** is a state where an individual cannot make rational, reasonable decisions due to the debilitating use of alcohol and/or other drugs, sleep, unconsciousness, or because of a disability that prevents the individual from having the capacity to give consent. Intoxication is not incapacitation and a person is not incapacitated merely because the person has been drinking or using drugs. Incapacitation due to alcohol and/or drug consumption results from ingestion that is more severe than