

Prohibited Conduct Defined

➔Discrimination & Harassment

Treating members of a protected class less favorably because of their membership in that class or having a neutral policy or practice that adversely impacts the members of one protected class more than others constitutes discrimination.

Subjecting an individual to unwelcome conduct, whether verbal or physical, that creates an intimidating, hostile, or abusive working, learning or campus living environment; that alters the conditions of employment or education; or unreasonably interferes with an individual's work or academic performance on the basis of the individual's membership in a protected class is harassment which is a form of discrimination.

Harassment may include, but is not limited to: verbal abuse; epithets or slurs; negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; insulting or obscene comments or gestures; and the display or circulation of written or graphic material (including in hard copy, by email or text, or through social media) that denigrates or shows hostility or aversion toward an individual or group members of a protected class. Calls, texts, emails, and social media usage by employees can contribute to a hostile work, learning, or living environment, even if they occur away from the workplace premises or not during work hours. Sexual harassment and other gender-based harassment, described further below, are forms of discrimination.

The University will determine whether the conduct was discriminatory based on both subjective and objective factors, based on the totality of the circumstances surrounding an alleged incident or course of conduct, including, the frequency, nature, and severity of the conduct, and whether a reasonable person would find the conduct discriminatory.

➔Sexual Harassment (*see also*, Title IX Sexual Harassment)

Sexual harassment is a form of sex discrimination. Unwelcome sexual advances, requests for sexual favors, requests for sexual contact, sexual comments, physical or visual conduct of a sexual nature, and sharing or displaying sexual images constitute sexual harassment. This includes when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, academic, co-curricular, or campus life activities; or
- Submission to or rejection of such conduct by an individual is used as the basis for academic, student life, or employment decisions affecting that individual; or
- Such unwelcome conduct is intentional or serves no legitimate purpose; or
- It involves unwelcome contact with parts of another individual's body which may cause that person to feel degraded or abused; or
- The unwelcome behavior is for the purpose of gratifying the actor's sexual desire; or

- The unwelcome conduct constitutes more than “petty slights or trivial inconveniences”; or
- Such unwelcome conduct has the purpose or effect of unreasonably interfering with another person’s academic or work performance or creating an intimidating, hostile, demeaning, or offensive working, learning, campus, or living environment.

The following describes acts that may be unlawful sexual harassment and are strictly prohibited:

- Unwelcome touching, pinching, patting, grabbing, brushing against another’s body;
- Subtle or obvious pressure for unwelcome sexual activities;
- Unwelcome requests for sexual favors accompanied by implied or overt threats concerning performance evaluations, promotion, etc.;
- Unwelcome images, texts, social media posts, or other images or materials that are sexually demeaning or pornographic (this does not include images shown solely for the purposes of academic instruction or research); or
- Unwelcome sexually oriented gestures, noises, remarks, jokes or comments about a person’s sexuality or sexual experience, which create a hostile environment.

Sexual harassment that meets the narrow definitional and jurisdictional requirements of “Title IX Sexual Harassment” will be addressed under the Interim Title IX Grievance Process.

➔ Title IX Sexual Harassment (*see also*, Sexual Harassment)

Title IX Sexual Harassment means conduct on the basis of sex that occurs in a University education program or activity within the United States (including computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of, the University); or within a University-owned building in the U.S.; or a building privately owned by an officially recognized student organization (e.g., a fraternity-owned building) in the U.S.; and that meets one or more of the following definitions:

1. An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct (*quid pro quo* sexual harassment);
2. 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 University’s education program or activity (hostile environment sexual harassment);
3. Sexual assault (as defined in the Clery Act) (*See* Title IX Gender-Based Misconduct, below);
4. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act) (*See* Title IX Gender-Based Misconduct, below);
5. Domestic violence (as defined in the VAWA amendments to the Clery Act) (*See* Title IX Gender-Based Misconduct, below);
6. Stalking (as defined in the VAWA amendments to the Clery Act) (*See* Title IX Gender-Based Misconduct, below).

Only paragraph (2) is required to meet the elements of severity, pervasiveness, and objective offensiveness.

Unwelcome sexual conduct that does not meet the definitional or jurisdictional requirements of “Title IX Sexual Harassment” (e.g., the conduct is not pervasive or it occurred outside of the United States) will be considered under the definition of “Sexual Harassment” and addressed under Columbia’s Complaint Investigation, Adjudication, and Appeals Procedures, as appropriate.

➔Retaliation (*see also*, Title IX Retaliation)

Retaliation is any adverse action or threatened action, taken or made, personally or through a third party, against an individual (or group of individuals) because of their participation in any manner in the submission or review of an EOAA report, an investigation, or proceeding under EOAA Policies & Procedures, including individuals who file a third-person report and those who are interviewed or who otherwise provide evidence in the investigation (witnesses).

- Any individual or group of individuals, not just a Respondent or Complainant, can be found to have engaged in retaliation.
- Retaliation includes threatening, intimidating, harassing, or any other conduct that would discourage a reasonable person from engaging in activity protected under EOAA Policies & Procedures, such as seeking services; receiving protective measures and accommodations; reporting misconduct; or participating in an investigation or adjudication.
- Retaliation includes maliciously and purposefully interfering with, threatening, or damaging the academic or professional career of another individual, before, during or after the investigation and resolution of a report of misconduct under EOAA Policies & Procedures.
- Retaliation may be found where a report is made in bad faith and the underlying charge does not constitute discrimination or harassment in violation of University policies.
- Retaliation does not include reports made or information provided in good faith, even if the facts alleged in the report are determined not to be accurate.

➔Title IX Retaliation (*see also*, Retaliation)

Neither the University nor any person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in any investigation proceeding, or hearing under these Policies.

Intimidation, threats, coercion, or discrimination, including charges against an individual for policy