

Training – Title IX

I. Overview and Purpose

The purpose of this Training is to provide a clear, practical framework for distinguishing between Title IX Sexual Harassment, Policy 1080 Non-Sexual Harassment, and unwelcome conduct that does not rise to the level of harassment, including repeated romantic pursuit. This distinction is not academic. It is central to compliance obligations, institutional credibility, and the ability to respond proportionately and consistently. The team must be able to evaluate conduct through the correct legal lens, apply the appropriate procedural pathway, and implement supportive measures without over-extending the definitions of harassment or Title IX jurisdiction. This training is intentionally scenario-based. The goal is to build the team's judgment - not just its vocabulary.

II. The Importance of Correct Classification

The intake work is the College's first line of compliance. When conduct is misclassified, it creates unnecessary procedural burdens, confuses complainants and respondents, and exposes the institution to risk. The law requires you to be precise, fair, and consistent. Correct classification ensures:

- Title IX is applied only when the federal standard is met
- Policy 1080 is applied when conduct is unwelcome but not sexual harassment
- Supportive measures are deployed early and appropriately
- Documentation reflects a disciplined, defensible intake process

III. Title IX Sexual Harassment: A Narrow, High Standard

Title IX sexual harassment is defined narrowly and intentionally. Under Policy 1080.7, conduct qualifies as Title IX sexual harassment only if it falls into one of the following categories:

1. **Quid Pro Quo:** An employee conditions a College benefit on sexual conduct.
2. **Sexual Assault, Dating Violence, Domestic Violence, or Stalking:** These require no showing of severity or pervasiveness.
3. **Unwelcome conduct on the basis of sex that is: Severe, Pervasive, and Objectively offensive, AND Effectively denies equal access** to education or employment. This standard is intentionally difficult to meet. It is designed for serious, disruptive, or threatening sexual conduct, not

awkward interactions, social misjudgment, or unwanted romantic interest.

IV. Understanding the Title IX Elements

A. Severe: Severity refers to conduct that is serious, threatening, or harmful. Examples include:

- Physical contact or attempted contact
- Sexualized comments or propositions
- Threats, intimidation, or coercion
- Humiliating or degrading sexual behavior

By contrast, conduct such as asking someone out, asking for a phone number, or attempting to make conversation (even if unwelcome) is not severe in the legal sense.

B. Pervasive: Pervasiveness requires frequency. It refers to conduct that is repeated, patterned, and difficult to avoid. Two isolated incidents months apart do not constitute pervasiveness. A single uncomfortable conversation does not constitute pervasiveness. Pervasiveness requires a pattern that alters the conditions of education or employment.

C. Objectively Offensive: Objectively offensive conduct is conduct that a reasonable person in the complainant's position would find hostile, intimidating, or abusive. Unwelcome romantic interest, personal questions, or attempts to continue a conversation may be inappropriate, but they are not objectively offensive.

D. Denial of Equal Access: Even if conduct is unwelcome, Title IX applies only when the conduct effectively denies the complainant equal access to education or employment. Indicators include:

- Avoiding classes or work
- Missing shifts
- Changing schedules
- Decline in performance
- Feeling unsafe in the environment

If none of these are present, Title IX jurisdiction is not met.

V. Policy 1080 Non-Sexual Harassment: Policy 1080's non-sexual harassment standard is broader. It applies to unwelcome conduct based on protected status that is:

- **Severe OR pervasive**, and
- Would make a reasonable person feel **intimidated, hostile, or abused**

Examples include slurs, ridicule, mockery, threats, or conduct that interferes with work or education.

This standard still requires more than discomfort. It requires conduct that meaningfully alters the environment.

VI. Unwelcome Conduct: Where Repeated Romantic Pursuit Fits: Repeated romantic pursuit is a common intake scenario. It is important to classify it correctly.

It is:

- Unwelcome
- Inappropriate
- Boundary-crossing
- Potentially disruptive
- A basis for supportive measures

It is NOT:

- Title IX sexual harassment
- Sexual harassment under 1080 unless sexualized or threatening

It IS:

- Conduct requiring administrative intervention
- Conduct requiring documentation
- Conduct requiring monitoring

This is where early intervention (no-contact directives, supportive measures, safety escorts) is most effective.

VII. Scenario-Based Application: The following scenarios illustrate how these standards apply in practice.

Scenario 1: The One-Time Ask

A student asks another student out once. The other student declines. No further contact.

Analysis:

- Unwelcome? Possibly
- Harassment? No
- Title IX? No
- Response: Document and monitor

Scenario 2: Repeated Pursuit After “No”

A student repeatedly asks a student employee for her number, asks when she gets off work, and previously asked her out last semester.

Analysis:

- Unwelcome? Yes
- Harassment? Possibly under 1080 if it interferes with work
- Title IX? No
- Response: Supportive measures, no-contact directive, documentation

Scenario 3: Sexualized Comments

A student makes repeated sexual jokes about a classmate’s body.

Analysis:

- Unwelcome? Yes
- Harassment? Yes
- Title IX? Possibly, depending on severity/pervasiveness
- Response: Title IX intake, supportive measures, possible formal complaint

Scenario 4: Threatening Behavior

A student threatens to “come find” another student if she doesn’t respond to his messages.

Analysis:

- Unwelcome? Yes

- Harassment? Yes
- Title IX? Yes (threat + sex-based context)
- Response: Title IX formal complaint pathway

VIII. Anticipated Questions and Answers

1. If the complainant says “I don’t feel harassed,” does that end the inquiry?

No. We apply an objective standard. The complainant’s perception is relevant but not determinative.

2. If conduct is unwelcome but not harassment, do we still intervene?

Yes. Supportive measures and administrative action are appropriate even when conduct does not meet the harassment threshold.

3. Does repeated romantic pursuit automatically equal harassment?

No. It becomes harassment only if it is severe OR pervasive and interferes with work or education.

4. When in doubt, should we classify conduct as Title IX?

No. Title IX jurisdiction is narrow. Over-classification creates procedural obligations we cannot ignore.

5. Does Campus Police involvement change our analysis?

It does not change the classification, but it may reduce immediate risk and inform supportive measures.

IX. Decision Tree for Intake Classification

Step 1: Is the conduct sexual in nature?

- **Yes** → Step 2
- **No** → Evaluate under 1080 Non-Sexual Harassment

Step 2: Does it involve sexual assault, dating violence, domestic violence, or stalking?

- **Yes** → Title IX
- **No** → Step 3

Step 3: Is the conduct severe, pervasive, and objectively offensive?

- **Yes** → Title IX
- **No** → Step 4

Step 4: Does the conduct deny equal access?

- **Yes** → Title IX
- **No** → Not Title IX → Evaluate under 1080

Step 5: Under 1080, is the conduct severe OR pervasive?

- **Yes** → 1080 Harassment
- **No** → Unwelcome conduct requiring administrative intervention

Step 6: Implement supportive measures and document.