

## **Title IX: Prohibited Sexual Harassment**

Prohibited Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following:

- i. Quid pro quo harassment occurs when some advancement or opportunity, such as grades, credits, graduation, or other benefits are conditioned upon participation in unwelcome sexual conduct or that an advancement or opportunity is withheld or punishment will result from a refusal to comply with a demand for participation in unwelcome sexual conduct.
- ii. Hostile environment harassment occurs when unwelcome conduct that a reasonable person would determine is so **severe, pervasive or objectively offensive** that it objectively denies a person equal access to the school's educational program or activity.
- iii. Sexual assault, dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

Severity, pervasiveness, and objective offensiveness are evaluated based on the **totality of the circumstances**, including the context in which the alleged incident occurred.

**In evaluating the totality of the circumstances, consider:**

- Severe, pervasive, and objectively offensive factors
- Size of the school, location of the incidents, and context in which they occurred
- Effect on the Complainant's mental or emotional state
- Whether the conduct was directed at more than one person
- Whether the conduct unreasonably interfered with the Complainant's educational performance

### **Severe**

- Physical conduct is more likely to be severe
- Accompanied by threats or violence
- Consider the circumstances (e.g., the ability for Complainant to remove themselves from the harassment)

### **Pervasive**

- Widespread
- Openly practiced
- Well-known among students – reputation of person, etc.
- Occurring in public spaces (more likely to be pervasive)
- Frequency of the conduct is often a variable in assessing pervasiveness (look to intensity and duration)
- Unreasonable interference with school

## **Objectively Offensive**

- Physically threatening
- Humiliating
- Intimidating
- Ridiculing
- Abusive
- Age and relationships of Complainant and Respondent
- Number of persons involved
- Frequency
- Severity