

REACH UNIVERSITY CAMPUS SAFETY

TABLE OF CONTENTS

- I. Summary of Equal Opportunity
- II. Anti-Harassment Policy
- III. Definitions
- IV. Compliance & Responsibilities
- V. Procedures
- VI. Frequently Asked Questions
- VII. Who to Contact

I. Summary of Equal Opportunity

Reach University is committed to creating a campus culture, physical and/or virtual (online), which values individuals of various backgrounds, abilities, and ages, and seeks to overcome the social risks associated with being 'different'. An important part of this commitment is providing an environment that is free of discrimination. Actions, words, jokes or comments based on an individual's race, color, religion, sex, disability, age, national origin, or sexual orientation may constitute harassment, a form of discrimination, and will not be tolerated.

II. Anti-Harassment Policy

Sexual conduct, in particular, whether overt or subtle, can serve to create an offensive work environment and is thus prohibited. Sexual harassment has been defined by the Equal Employment Opportunity Commission to include unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature which:

- 1) involves a stated or implicit threat to a person's academic or employment status;
or
- 2) has the purpose or effect of interfering with an individual's academic or work performance; or
- 3) creates an intimidating, offensive, or hostile academic, living, or working environment.

III. Definitions

A. Consent

Consent is *affirmative, conscious, voluntary, and revocable*. Consent to sexual activity requires of each person an affirmative, conscious, and voluntary agreement to engage in sexual activity.

It is the responsibility of each person to ensure they have the affirmative consent of the other to engage in the sexual activity. Lack of protest, lack of resistance, or silence do not, alone, constitute consent. Affirmative consent must be ongoing and can be revoked at any time during sexual activity.

The existence of a dating relationship or past sexual relations between the Complainant and Respondent will never by itself be assumed to be an indicator of consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of consent to prior conduct).

The Respondent's belief that the Complainant consented will not provide a valid defense unless the belief was actual and reasonable. In making this determination, the factfinder will consider all of the facts and circumstances the Respondent knew, or reasonably should have known, at the time. In particular, the Respondent's belief is not a valid defense where:

1. The Respondent's belief arose from the Respondent's own intoxication or recklessness;
2. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented; or
3. The Respondent knew or a reasonable person should have known that the Complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was:
 - a) asleep or unconscious;
 - b) unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication; or
 - c) unable to communicate due to a mental or physical condition.

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances:

- The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused.
- The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.

Furthermore, it shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:

- The complainant was asleep or unconscious.

- The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.
- The complainant was unable to communicate due to a mental or physical condition.

Note: Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking, using drugs, or taking medication.

B. Sexual Assault – Penetration

Without the consent of the Complainant, penetration, no matter how slight, of:

- the Complainant’s mouth by penis or other genitalia; or
- the Complainant’s vagina or anus by any body part or object.

C. Sexual Assault – Contact

Without the consent of the Complainant, intentionally:

- touching Complainant’s intimate body part (genitals, anus, groin, breast, or buttocks);
- making the Complainant touch another or themselves on any intimate body part; or
- touching the Complainant with one’s intimate body part, whether the intimate body part is clothed or unclothed.

Note: *Sexual Assault—Penetration* and *Sexual Assault—Contact* are aggravated when they include any of the following:

- Overcoming the will of Complainant by:
 - *force* (the use of physical force or inducing reasonable fear of immediate or future bodily injury);
 - *violence* (the use of physical force to cause harm or injury);
 - *menace* (a threat, statement, or act showing intent to injure);
 - *duress* (a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause a reasonable person of ordinary sensitivity, considering all circumstances including age and relationship (including a power imbalance), to do or submit to something that they would not otherwise do); or
 - deliberately causing the Complainant to be incapacitated (for example, through drugs or alcohol);
- Deliberately taking advantage of the Complainant’s incapacitation (including incapacitation that results from voluntary use of drugs or alcohol);
- Recording, photographing, transmitting, or distributing intimate or sexual images of Complainant without Complainant’s prior knowledge and consent; or
- Engaging in the conduct during or in connection with a clinical encounter (as defined in Appendix V) in which the Complainant was a patient and the Respondent was a health care provider or health care worker.

D. Relationship Violence

i. Relationship Violence is:

- physical violence toward the Complainant or a person who has a close relationship with the Complainant (such as a current or former spouse or intimate partner, a child or other relative), or
- intentional or reckless physical or non-physical conduct toward the Complainant or someone who has a close relationship with the Complainant (such as a current or former spouse or intimate partner, a child or other relative) that would make a reasonable person in the Complainant's position fear physical violence toward themselves or toward the person with whom they have the close relationship,

that is by a person who is or has been in a spousal, romantic, or intimate relationship with the Complainant, or who shares a child with the Complainant, *and* that is part of a pattern of abusive behavior by the person toward the Complainant.

ii. Physical violence is physical conduct that intentionally or recklessly threatens the health and safety of the recipient of the behavior, including assault.

iii. Patterns of abusive behavior may consist of or include non-physical tactics (such as threats, isolation, property destruction, abuse of pets, economic control, displaying weapons, degradation, or exploitation of a power imbalance).

iv. The nature of the relationship between the Complainant and Respondent is determined by the length and type of relationship, and the frequency of interaction between them. Relationship violence includes both "dating violence" and "domestic violence."

v. Conduct by a party in defense of self or another is not Relationship Violence under this Policy. If either party asserts that they acted in defense of self or another, the Title IX Officer will use all available, relevant evidence to evaluate the assertion, including reasonableness of the defensive actions and which party is the predominant aggressor.

E. Stalking

Repeated conduct directed at a Complainant (for example, following, monitoring, observing, surveilling, threatening, communicating or interfering with property), of a sexual, romantic or other sex-based nature or motivation, that would cause a reasonable person to fear for their safety, or the safety of others, or to suffer substantial emotional distress.

F. Sexual Exploitation

i. Sexual Exploitation is taking sexual advantage of another, where the conduct is not otherwise addressed in this Policy, in the following circumstances:

- The trafficking or prostituting of another without their consent: Inducing the Complainant to perform a commercial sex act through force, fraud, or coercion, or where the Complainant is under the age of 18;

- Knowingly making a material false representation about sexually transmitted infection, birth control, or prophylactic status with the specific intent and effect of inducing the Complainant to participate in a specific sexual act or encounter;
 - Providing alcohol or drugs to the Complainant with the specific intent and effect of facilitating Prohibited Conduct; or
 - Actively facilitating or assisting another person in committing Prohibited Conduct.
- ii. As used in the above definition of Sexual Exploitation:
- Coercion is overcoming the will of Complainant through:
 - credible threats of serious physical or non-physical harm to the Complainant or another person;
 - a plan intended to make the Complainant believe that failure to perform an act would result in serious physical or non-physical harm to the Complainant or another person; or
 - the abuse or credible threat of abuse of a legal or University policy process.
 - A commercial sex act is any sex act for which anything of value is given to or received by any person.
 - Force is physical conduct that would reasonably overcome the will of another.
 - Fraud is intentional deception that would reasonably overcome the will of another.

G. Harassment

Harassment. Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of a person's race, color, religion, national origin, sex, age, or disability; Title IX of the Education Amendments of 1972 prohibits sexual harassment of students. Harassment of any member of the Reach University community on any of these grounds including sexual orientation is a form of discrimination and is a violation of University policy and will not be tolerated.

H. Sexual Harassment

a. Sexual Harassment is when:

i. *Quid Pro Quo*: a person's submission to unwelcome sexual conduct is implicitly or explicitly made the basis for employment decisions, academic evaluation, grades or advancement, or other decisions affecting participation in a University program or activity; or

ii. *Hostile Environment*: unwelcome sexual or other sex-based conduct is sufficiently severe, persistent or pervasive that it unreasonably denies, adversely limits, or interferes with a person's participation in or benefit from the education, employment or other programs or activities of the University, and creates an environment that a reasonable person would find to be intimidating or offensive.

b. Sexual conduct includes sexual or romantic advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.

c. Other sex-based conduct includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender, gender identity, gender expression, sex- or gender-stereotyping, or sexual orientation.

d. Consideration is given to the totality of the circumstances in which the conduct occurred.

e. This Policy will be implemented in a manner that recognizes the importance of the rights to freedom of speech and expression and will not be interpreted to prohibit expressive conduct that is protected by the free speech and academic freedom principles discussed in Section III.F.

IV. Compliance and Responsibilities

Sexual harassment may range in severity from sexist remarks to violent sexual assault. Harassment on the basis of sex, race, religion, or other legally protected characteristics is a violation of Title VII of the Civil Rights Act of 1964, as amended.

All employees are held accountable for the effective administration of this policy. Employees who feel they have been subjected to harassment in violation of the provisions of this policy are urged to contact HR@reach.edu to learn the proper procedures for having their complaint investigated. Assistance in preparing a written grievance can be provided. Students who feel they have been harassed, or who have knowledge of possible harassment of others, should contact HR@reach.edu.

V. Procedures

Reach University will investigate complaints of harassment and resolve them expeditiously in a professional manner, as called for by individual circumstances. Complaints will be investigated confidentially to the extent permitted by law; however, confidentiality cannot be assured. Anonymous complaints will not be investigated. If the investigation concludes that harassment in violation of this policy has occurred, the University will take prompt corrective action reasonably calculated to prevent further harassing conduct and to reflect the severity of the conduct. Appropriate disciplinary action, up to and including dismissal, will be taken as circumstances warrant.

Reach University will not condone or tolerate any retaliation taken as a result of reporting harassment. Retaliation taken against any employee or student for reporting a harassment grievance, or for participating in the investigation of such a grievance, is a violation of this policy and provides separate grounds for disciplinary action.

First step for harassment concerns

- Tell the harasser, either in person or in writing, that his or her behavior makes you uncomfortable and request that it stop. You may find that the individual was unaware that his or her behavior was offensive.
- Discourage the behavior by responding with an icy attitude. If the individual thought he or she was being cute, funny, or flattering, a negative response will indicate otherwise.
- If the behavior continues, report it!

- If you are not comfortable approaching the other person directly, if the behavior is that of a group rather than an individual, or if the behavior is very severe, you should go directly to the next step.

Second step for harassment concerns

- Report the behavior to someone in authority. This includes, but is not limited to, a supervisor or any authority figure that you trust.
- If this is difficult, inappropriate, or unsuccessful, report your concern directly to HR@reach.edu.
- Write down what happened, when it happened, and the names of anyone else that may have seen or heard the behavior.
- It is important to express your concerns through this process. Ignoring harassment often makes the situation worse, and lack of response may be interpreted as approval.
- Retaliation against or intimidation of someone who brings a harassment complaint, or who cooperates in the investigation of a complaint, will not be tolerated.

If you witness harassment, offer support to the victim, encourage him or her to act, and be willing to speak up on his or her behalf. If you are contacted as part of an investigation, cooperate fully.

VI. Frequently Asked Questions

Does this policy apply to me?

Reach University's policy against harassment applies to all members of the University community: students, faculty, and staff. It may also apply to off-campus persons involved in University-sponsored activities.

What happens when harassment is reported?

Concerns about harassment are investigated and resolved as quickly as possible. Most cases can be resolved confidentially and informally; if disciplinary action is taken, it is in proportion to the severity of the harassment. If the behavior is not found to be harassment, no sanctions are imposed.

Is there a deadline for reporting harassment?

There is no deadline, but incidents of harassment are much easier to deal with if they are reported promptly.

Can I report harassment concerns anonymously?

The University records, but does not investigate, anonymous complaints. We make every effort to keep reports confidential and to resolve concerns privately.

What if I'm not sure it is harassment?

You should report it anyway! If the behavior does not qualify as harassment, no one will be disciplined, but we may be able to educate those involved and prevent harassment that might have occurred later.

Harassing behavior is behavior that is based on one or more of these characteristics and is unwelcome by the person whom it affects. It may affect interfere to that person's job or education by creating an offensive, intimidating, or hostile environment.

Harassment can include verbal, visual or physical behavior. That means that remarks, jokes, gestures, displayed or distributed material, and unnecessary physical contact can constitute harassment. Some behavior creates a pattern of harassment when it occurs more than once; other behavior is severe enough that one incident can be considered harassment. Reach University is committed to investigating and resolving all harassment concerns. Anyone who witnesses or is the victim of behavior which might be considered harassment should follow this procedure:

Avoid making comments or demonstrating attitudes that might be offensive to others; do not assume that everyone enjoys the same jokes, comments, or treatment. Do not assume that someone will tell you if they are offended by something you say or do.

VII. Who to contact

Human Resources/Title IX: HR@reach.edu