Sexual Harassment Awareness Training & Prevention

Opportunity Development Center

Anti-Harassment Policy: HR-002
Introduction

- Basic facts about sexual harassment:
  - Sexual harassment is a form of sex discrimination
  - It violates Vanderbilt’s Anti-Harassment Policy
  - It violates federal law—
    - Title VII of the Civil Rights Act of 1964 in an employment setting and
    - Title IX of the Education Amendments of 1972 in an educational setting.

- Sexual harassment claims are one of the most common reported to the ODC.
Vanderbilt’s Anti-Harassment Policy & Applicable Federal Law

Vanderbilt Policy:
- Prohibits harassment on the basis of sex (as well as race, religion, color, national or ethnic origin, age, disability, sexual orientation, gender identity and gender expression) [http://hr.vanderbilt.edu/POLICIES/hr-002.pdf].

Federal Law
- TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 (AS AMENDED) prohibits discrimination on the basis of sex (as well as race, religion, color, or national origin.) Harassment is a form of discrimination. Most terms and conditions of employment are covered, including:
  - recruitment, selection, assignment, transfer, layoff, discharge, and recall
  - opportunities for promotion
  - in-service training or development opportunities
  - wages and salaries
  - sick leave time and pay, vacation time and pay, overtime work and pay
  - medical, hospital, life and accident insurance
  - other staff benefits

- TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 prohibits discrimination on the basis of sex in any education program or activity receiving federal financial assistance. No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any education program or activity that receives Federal funds because of their sex.
What is Sexual Harassment?

- Vanderbilt adheres to federal guidelines which define sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
  - submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
  - submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
  - such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

- This set of guidelines also apply to students in an educational setting under Title IX.
2 Types of Sexual Harassment

- The previous definition establishes two types of sexual harassment:
  1. *Quid pro quo* and
  2. *Hostile environment.*
Quid Pro Quo Sexual Harassment

- *Quid pro quo* means “this for that,” or an exchange of one thing for another.

- **Examples:**
  - A manager tells her employee that she will give him a raise if he goes on a date with her.
  - A teacher’s assistant tells a student he will score the student higher on a test if she will kiss him.
Hostile Environment Sexual Harassment

- A hostile environment occurs when unwelcome sexual conduct is so severe or pervasive that it unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile or offensive working environment.

- Examples:
  - Consistently calling a person a girl, hunk, doll, babe or honey
  - Turning work discussions into sexual topics
  - Repeatedly asking out a person who is not interested
  - Constantly looking a person up and down (elevator eyes)
  - Giving letters, gifts and/or materials of a sexual nature
Actions That Can Constitute Sexual Harassment

- One form or a combination of the following can constitute sexual harassment:
  - Verbal
  - Non-verbal
  - Physical conduct
Verbal Actions

- Calling a person a girl, hunk, doll, babe, honey, sweetie, etc.
- Whistling at someone or cat calls
- Making sexual innuendoes
- Turning work discussions to sexual topics
- Telling sexual jokes or stories
- Asking about sexual fantasies, preferences, or history
- Asking personal comments about a person’s clothing, body, or looks
- Repeatedly asking out a person who is not interested
- Making kissing sounds, howling, smacking lips
- Telling lies or spreading rumors about a person’s sex life
Non-Verbal Actions

- Looking a person up and down (elevator eyes)
- Staring at someone
- Blocking a person’s path; restricting, hindering the other person’s movements
- Following the person
- Displaying sexually suggestive visuals, artifacts, items
- Displaying sexual and/or derogatory comments about men/women on coffee mugs, hats, clothing, etc.
- Making facial expressions, such as winking, throwing kisses, or licking lips
- Making sexual gestures with hands and/or body movements
- Giving letters, gifts, and or materials of a sexual nature
- Hanging around a person
- Invading a person’s body space; standing closer than appropriate or necessary for the work being done
Physical Actions

- Massaging a person’s neck, shoulders, etc.
- Touching the person’s clothing, hair, or body
- Hugging, kissing, patting, and stroking
- Touching or rubbing oneself sexually around or in the view of another person
- Brushing up against a person
- Patting, goosing, caressing, or fondling
- Gestures/sounds: making sexual pleasure/desire/groaning sounds; gestures that nonverbally describe/draw/sexual parts of the anatomy
- Tearing/pulling/yanking a person’s clothing
- Exposing oneself
What Does “Unwelcome” Mean?

- According to federal guidelines, conduct must be unwelcome “in the sense that the employee **did not solicit or incite it** , and in the sense that the employee regarded the conduct as **undesirable or offensive**.”

- There is a distinction between conduct that is invited, uninvited-but-welcome, offensive-but-tolerated, and flatly rejected.

- If the individual willingly participates, it may not be seen as unwelcome.

- Some sexual conduct is so blatant that it is inherently offensive and unwelcome.
The Harasser’s Intent is Irrelevant

- The harasser’s intent is irrelevant when evaluating his or her conduct.

- The conduct is evaluated from an objective “reasonable person” standard:
  - whether a reasonable person in similar circumstances would have found the conduct to be so severe or pervasive that it created a hostile environment.
Sex-Based & Same-Sex Harassment

- Sex-based harassment—that is, harassment not involving sexual activity or language—may also give rise to a policy violation if it is sufficiently patterned or pervasive and directed at employees because of their sex.

  - Examples:
    - A female professor tells sexist jokes during class as a teaching method.
    - A male manager promotes a male candidate over a female candidate solely based on her sex, despite the female having more experience and qualifications.

- Same-sex sexual harassment—this is sexual harassment between individuals of the same sex
Relationships in the Workplace or Educational Setting

- **Staff:**
  - Romantic relationships between staff where one has control over the other are inappropriate, even if consensual, and must be disclosed. Both parties have the right to end it any time without fear of retaliation.
  
  - For a full reading, see Vanderbilt’s Relationships in the Workplace Policy at [http://hr.vanderbilt.edu/POLICIES/hr-033.pdf](http://hr.vanderbilt.edu/POLICIES/hr-033.pdf)

- **Faculty/Students:**
  - Consensual sexual relationships are prohibited between a student and a faculty member, TA, or admin. assistant in a position to exercise authority over that student. Consensual sexual relationships between a student and a faculty member, TA, or admin. assistant not in a position to exercise direct authority over that student may also be inappropriate.

  - For a full reading, see Vanderbilt’s Faculty Manual can be found online at [http://www.vanderbilt.edu/facman/files/FacultyManPartIII.pdf](http://www.vanderbilt.edu/facman/files/FacultyManPartIII.pdf)
Discipline and Liability for Sexual Harassment

- **Discipline**
  - This depends on one’s status (i.e. faculty, staff, student) as different bodies of rules apply.

- **University Liability:**
  - The university may be held liable for sexual harassment by supervisors and non-supervisors.
  - Supervisors/management **must** disclose claims of discrimination, harassment and/or retaliation to the ODC.
    - Your knowledge is imputed to all of Vanderbilt.

- **Personal Liability:**
  - The person accused may be held personally liable.
What is Retaliation?

- According to Vanderbilt’s definition of retaliation, one may not fire, demote, harass or otherwise "retaliate" against an individual for
  - filing or encouraging one to file a complaint of discrimination,
  - participating in an investigation of discrimination, or
  - opposing discrimination.

- An employer may not coerce, intimidate, threaten, or interfere in the exercise of an employee’s rights or encouragement of someone else's exercise of rights.
  - The student or employee is OFF LIMITS for revenge purposes.
  - The student or employee is NOT off limits for employment actions such as discipline or grading, so long as it’s justified and others similarly situated are treated the same.
Who is Protected by the Retaliation Provision?

- Covered individuals are:
  - individuals who have filed or encouraged one to file a complaint of discrimination, participated in an investigation of discrimination, or opposed discrimination.
  - individuals who have a close association with someone who has engaged in such protected activity.

- Individuals who have brought attention to violations other than discrimination are not covered individuals under the nondiscrimination or anti-harassment policies, but may be protected under other policies or laws.
What To Do If:

- **You Are a Recipient:**
  - Don’t just take it. Confront the person and let him/her know that the behavior is offensive and you want it to stop.
  - Keep records. Write down dates, times, places, and witnesses to what happened. If you receive any notes, emails, or written letters from the harasser, keep them.
  - Make a complaint with the **Opportunity Development Center**. If you are afraid, bring a friend, co-worker or teacher with you.

- **You are a Witness:**
  - Contact the **Opportunity Development Center**. The University will take it seriously.
  - Keep records. Write down dates, times, places, and names of others that witnessed the harassment. The University will investigate the allegation and take prompt, effective action to correct the problem.

- **You are a Harasser:**
  - Stop your behavior immediately and seek help.
How Can I Tell If My Behavior Is Inappropriate?

- Ask yourself:
  - Would I mind if someone treated my wife/husband, partner, girlfriend/boyfriend, mother/father, sister/brother, or daughter/son this way?
  - Would I mind if this person told my wife/husband, partner, girlfriend/boyfriend, mother/father, sister/brother, or daughter/son about what I was saying or doing?
  - Would I do this if my wife/husband, partner, girlfriend/boyfriend, mother/father, sister/brother, or daughter/son were present?
  - Would I mind if a reporter wanted to write about what I was saying or doing?
  - If I ask someone for a date, and the answer is ‘no’, do I keep asking?
  - If someone asks me to stop a particular behavior, do I get angry and do more of the same behavior instead of apologizing and stopping?
  - Do I tell jokes or make ‘funny’ remarks involving the opposite sex and/or sexuality?

- If the answer to any of these questions is yes, the chances of the behavior being considered sexual harassment are very high. Because such behavior is likely to be a high risk, if you have to ask, it is probably better not to do it.
Additional Resources

- To file a complaint, contact:
  - Vanderbilt’s Opportunity Development Center
    Location: 110 21st Avenue South, Suite 108 and 808, Nashville, TN 37235
    Phone: 615-322-4705
    Fax: 615-343-4969

- For general advice, support or counseling, contact:
  - Margaret Cuninggim Women’s Center: 615-322-4843
  - Office of Religious Life: 615-322-2457
  - Psychological and Counseling Center: 615-322-2571
  - Rape and Sexual Abuse Center: 615-256-8526
  - Student Health Center: 615-322-2427

- To report criminal activity or file a charge, contact:
  - Vanderbilt University Police Department
    2800 Vanderbilt Place, Nashville, TN 37212, 615-322-2745
  - Victim Services: 615-322-0883
Important Links

- Anti-Harassment Policy
  - http://hr.vanderbilt.edu/POLICIES/hr-002.pdf

- Relationships in the Workplace Policy
  - http://hr.vanderbilt.edu/POLICIES/hr-033.pdf

- Faculty Standards of Conduct
  - http://www.vanderbilt.edu/facman/files/FacultyManPartIII.pdf

- Violence in the Workplace Policy
  - http://hr.vanderbilt.edu/POLICIES/hr-027.pdf

- Electronic Communications Policy
  - http://hr.vanderbilt.edu/POLICIES/hr-025.pdf