



## University of Wisconsin-La Crosse Office of Title IX and Compliance Sexual Misconduct Definitions

**Actual Knowledge** – Notice of sexual harassment or allegations thereof provided to an institution’s Title IX Coordinator or any official who has the authority to institute corrective measures on behalf of the institution. (OCR 2020 New Regulations)

**Advisor** – An individual who assists a complainant or respondent in any grievance proceeding or related meetings. This individual may or may not be an attorney. (RPD 14-2). For Title IX hearings, only advisors can conduct the cross-examination of parties and witnesses. (OCR 2020 New Regulations)

**Chief Administrative Officer** – The Chief Administrative Officer means the chancellor of an institution or their designees. (Chapter UWS 17)

**Complainant** – A complainant means any individual who is alleged to be the subject of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, as defined in PRD 14-2. (RPD 14-2)

**Confidential Employee** – Any employee, who is a licensed medical, clinical, or mental health professional when acting in that role in the provision of services to a patient or client who is a university student or employee. A Confidential Employee will not report specific information concerning a report of sexual violence or sexual harassment received by that Employee in the Employee’s professional capacity unless with the consent of the reporting individual or unless required by the Employee’s license or by law. (RPD 14-2)

**Confidential Resource** – Individuals or agencies in the community, whose professional license, or certification permits that individual or agency to preserve the confidentiality of the patient or client. (RPD 14-2)

**Consent** – Words or overt actions by a person who is competent to give informed consent, indicating a freely given agreement to engage in sexual activity or other activity referenced in this policy. A person is unable to give consent if the person is incapacitated because of drugs, alcohol, physical or intellectual disability, or unconsciousness. (RPD 14-2)

**Dating Violence** – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. (RPD 14-2)

**Decision Maker** – A decision maker is a person appointed for the purposes of rendering decisions related to reports of sexual misconduct.

**Deliberate Indifference** – An institution acts with deliberate indifference only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. (OCR 2020 New Regulations)

**Domestic Violence** – Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of Wisconsin, or by any other person against an adult or youth complainant who is protected from that person’s acts under the domestic or family violence laws of Wisconsin. (RPD 14-2)

**Education Program or Activity** – For purposes of a Title IX Complaint only, locations, events, or circumstances at which the university exercised substantial control over both the faculty member and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the university. (RPD 14-2)

**Employee** – Any individual who holds a faculty, academic staff, university staff, limited, student employment, employee-in-training, temporary, or project appointment. (RPD 14-2)

**Executive Order 54** – Executive Order issued by Governor Walker in 2011 requiring that university employees report incidents of child abuse and neglect which they observe or learn of in the course of their employment. Such reports must be personally and immediately made to law enforcement or the county department of social services or human services. (RPD 14-2)

**Fondling** – Fondling is a form of sexual assault and involves the touching of the private body parts of the complainant for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity. (RPD 14-2)

**Formal Complaint** – For the purposes of Title IX misconduct only, a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment, sexual assault, dating violence, domestic violence, or stalking against a respondent and requesting that the university investigate the allegations. At the time of filing of the formal complaint, the complainant must be participating in or attempting to participate in an educational program or activity. A formal complaint may be filed in person, by mail, or electronic mail, or any other method designated by the university. A formal complaint must include a physical or digital signature of the complainant or the Title IX Coordinator. (RPD 14-2)

**Hearing Examiner** – A hearing examiner is an individual, other than the investigating officer, appointed by the chief administrative officer for the purpose of conducting a hearing for complaints of sexual misconduct. (Chapter UWS 17)

**Incapacitation** – The state of being unable to physically and/or mentally make informed rational judgments and effectively communicate, and may include unconsciousness, sleep, or blackouts, and may result from the use of alcohol or other drugs. Where alcohol or other drugs are involved, evaluation of incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person’s decision-making ability; awareness of consequences; ability to make informed, rational judgments; and capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person. (RPD 14-2)

**Incest** – Incest is a form of sexual assault and involves sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. (RPD 14-2)

**Investigator** – The investigator, also known as an investigating officer, is an individual appointed to conduct investigations of sexual misconduct. (Chapter UWS 17)

**Office for Civil Rights** – The U.S. Department of Education office that is responsible for enforcing Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and other education-based discrimination acts. (RPD 14-2)

**Officials with Authority** – Any official of the university who has the authority to institute corrective measures on behalf of the university. (RPD 14-2)

**Quid Pro Quo Harassment** – Quid pro quo sexual harassment is when a school employee explicitly or implicitly conditions a student's participation in an education program or activity or bases an educational decision on the student's submission to unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature. Quid pro quo harassment is equally unlawful whether the student resists and suffers the threatened harm or submits and thus avoids the threatened harm. (OCR 1997 Sexual Harassment Guidance)

**Rape** – Rape is a form of sexual assault and involves the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of the complainant, without the consent of the complainant. (RPD 14-2)

**Preponderance of the Evidence** – Information that would persuade a reasonable person that a proposition is more probably true than not true. It is a lower standard of proof than “clear and convincing evidence” and is the minimum standard for a finding of responsibility. (RPD 14-2)

**Reporting Sexual Misconduct** – Anyone who completes our online reporting form has reported sexual misconduct. Reporting sexual misconduct **does not** mean a formal complaint has been filed.

**Respondent** – An individual who has been reported to be the perpetrator of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, as defined in this policy. (RPD 14-2)

**Responsible Employee** – Any employee (other than a “confidential resource”): 1) Who has the authority to take action to redress sexual misconduct; or 2) Who has been given the duty of reporting incidents of sexual misconduct by students or employees to the Title IX coordinator or other appropriate school designee. (RPD 14-2)

**Retaliation** – Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured in, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this RPD 14-2. (RPD 14-2)

**Sex Discrimination** – Discrimination on the basis of sex or gender. Sexual harassment and sexual assault are forms of sex discrimination. (RPD 14-2)

**Sexual Assault** – An offense that meets the definition of rape, fondling, incest, or statutory rape as defined. (RPD 14-2)

**Sexual Exploitation** – Occurs when an individual attempts, takes, or threatens to take nonconsensual sexual advantage of another person. (RPD 14-2)

**Sexual Harassment** – Conduct on the basis of sex that satisfies one or more of the following: An employee of the institution conditions the provision of an aid, benefit, or service of the institution directly or indirectly on an individual's participation in unwelcome sexual conduct; or Unwelcome conduct of a sexual nature directed towards a student, an employee, or a person participating in a program or activity of the university that, when using the legal “reasonable person” standard: Is so severe, pervasive, and objectively offensive that it effectively denies the person equal access to the institution's education program or activity; or Is so severe or pervasive and objectively offensive that it has the purpose or effect of unreasonably interfering with an individual's academic or work performance or participation in an university sponsored or supported activity, or creates an intimidating, hostile, or offensive academic, working, or program or activity related environment. (RPD 14-2)

**Sexual Violence** – The phrase, as used in this policy, refers to incidents involving sexual assault, dating violence, domestic violence, stalking, and sexual exploitation. (RPD 14-2)

**Stalking** – Engaging in a course of conduct directed at the complainant that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress. (RPD 14-2)

**Statutory Rape** – Statutory rape is a form of sexual assault and involves sexual intercourse with a complainant who is under the statutory age of consent. (RPD 14-2)

**Student** – “Student” means any person who is registered for study in a University of Wisconsin System institution for the academic period in which the alleged act of sexual violence or sexual harassment occurred, or between academic periods for continuing students. (RPD 14-2)

**Supportive Measures** – Non-disciplinary, non-punitive individualized services that are reasonably available and provided without fee or charge to the complainant or respondent. (OCR 2020 New Regulations)

**Title IX** – Title IX of the Education Amendments of 1972 (20 U.S.C. sec. 1681 et seq.; 34 C.F.R. Part 106)(as amended) is a federal law that states, “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” (RPD 14-2)

**Title IX Misconduct** – A report of sexual harassment or sexual violence under this policy will be considered Title IX Misconduct when a formal complaint (as defined in this section) is either filed by a complainant or signed by the Title IX Coordinator and the alleged conduct meets the definition of sexual harassment, sexual assault, dating violence, domestic violence, or stalking as defined in 34 C.F.R. 106.30, occurred within a university “education program or activity” (as defined in this section) and occurred against the complainant while in the United States; and the complainant is participating in or attempting to participate in a university education program or activity at the time they file the formal complaint. (RPD 14-2)

**Title IX Coordinator** – An employee designated to coordinate compliance with Title IX, who plays an important role in an institution's efforts to ensure equitable opportunity for all students and employees, and who works with school officials to remind the school community that students and employees must have equal access to all programs. (RPD 14-2)

**Trauma-Informed Care** – Trauma-informed care reflects an understanding of trauma and emphasizes creating services and programs that are sensitive and directly responsive to the trauma that many victims and survivors experience following a violent crime. Trauma-informed care programs identify and limit potential triggers to reduce their re-traumatization and protect their mental and emotional health. Trauma-informed care is an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma. Trauma-informed care also emphasizes physical, psychological and emotional safety for both consumers and providers, and helps survivors rebuild a sense of control and empowerment. A process that employs trauma-informed care accounts for the impact of trauma but does not recognize symptoms of trauma as evidence that a particular incident did or did not occur. (RPD 14-2)

**Violence Against Women Act** – Federal law enacted in 1994, which promotes the investigation and prosecution of violent crimes against women, among other objectives. Recently, it enacted amendments to the Clery Act through the Campus Sexual Violence Elimination Act (SaVE) provision. (RPD 14-2)