



## **Sexual Harassment Orientation**

Sexual harassment hurts us all. It reduces the dignity of the person being harassed, it can cause anxiety, even illness; it fills its victims with self-doubt, anger, and worse, it results in lessened academic and work performance. For these reasons it is to be avoided. It is also to be avoided because it is illegal.

The Maine Sexual Harassment Training and Education Law defines and prohibits sexual harassment; and it requires that the College, like any other employer in the state, do a number of things. We must provide annual written notification to all employees and to post certain information in the workplace. Also we are required to “train” *all* employees on an annual basis, and provide additional training to those people who serve as supervisors. At Saint Joseph’s College we believe that all members of the community, whether faculty, students, or staff, new or seasoned, because of the seriousness of the matter, should have information on this law made available to them.

Maine state law defines sexual harassment in terms of the workplace. Saint Joseph’s carries this definition one step further to include the academic environment. We believe that students, as well as employees, should be free from any form of harassment in the classroom and at work. It is important to note that the same procedures are generally followed when handling complaints in regard to other forms of illegal harassment, including racial harassment, or harassment based on a person’s physical or mental handicap, age, religion, or national origin. The measure as to what constitutes harassment is what a reasonable person within that grouping would consider unwelcome.

### **The Saint Joseph’s College definition of sexual harassment appears below:**

Sexual harassment in the workplace is unlawful under both state and federal law and is not tolerated at Saint Joseph’s College. Further, sexual harassment is expressly prohibited in the academic environment.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic success;



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- b) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such an individual; or
- c) such conduct has the purpose or effect of substantially interfering with an individual's work or academic performance, or creating an intimidating, hostile, or offensive working or learning environment.

Sexual harassment may consist of physical conduct, such as unwelcome or offensive touching; verbal conduct, such as vulgar remarks, or suggestive comments or jokes; nonverbal conduct, such as whistling or leering; or visual displays, such as sexually oriented calendars or posters. Men as well as women may be the victims of sexual harassment.

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Above, three different definitions of sexual harassment are cited. Both a) and b) are defined as quid pro quo situations in which a person must **do x in order to receive y**. For example, in order to keep her job working in the lab, Jenny is told by her supervisor that she must date him. Or, if Jenny is a student she is told that in order to receive a passing grade in the lab, she must date the instructor. These are egregious examples of sexual harassment, which are infrequent and quite clear cut in terms of their inappropriateness and illegality. The third definition, c), "substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working or learning environment," is more complex and vague.

For another example let's return to the lab with Jenny, who is studying anatomy. Her instructor makes frequent jokes about anatomical differences between men and women that make Jenny uncomfortable. She mentions this to the instructor after class, but he dismisses her concern, citing that it is relevant to the course content, and that no one else has complained. Is it sexual harassment? Yes. Jokes of a sexual nature are probably the well-disguised form of sexual harassment, and even when partially contextualized in the anatomy lab they are highly suspect.

Let's turn the situation around a little for the next example. Jeff signed up for an art course on the human figure in which nude models are used. He is embarrassed by the models' presence and informs the instructor, who suggests that if he is uncomfortable, he should drop the course. Jeff files a complaint, citing a hostile



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environment that interferes with his ability to complete the course. Is this harassment? No. The use of nude models in an art course on the human figure is well within the prerogative of the instructor.

Let's review one more example. Suppose Karen is a student in a history class and the instructor always stares at her chest when he calls on her to answer questions in class. Halfway through the semester he calls her into his office to discuss her final paper and in the process of the discussion, he finds occasion to tell her that he has dated several women shaped like her. Karen smiles, says hers is a pretty common shape, and finishes up her meeting with the instructor. The next day in class, he mentions to her at the break that he's like to see her shape in his office again after class. Karen files a complaint. Is this sexual harassment? Most people would say yes, although the decision is based on innuendo.

Although we could continue with more examples, a good gauge to use is generally: "What would a reasonable person consider offensive?" Although most harassment complaints are brought forward by a woman about a man, men too can be the victims of harassment, and same sex harassment – female-to-female or male-to-male does occur.

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So what does happen if you have a complaint or a concern? There are two possible routes to take, one formal, one informal. In either instance you need to begin with contacting the Title IX Coordinator. The Title IX Coordinator is Sue Kelly, (207-893-7752 or [skelly@sjcme.edu](mailto:skelly@sjcme.edu)), and she serves as the sexual harassment officer at Saint Joseph's College. She, in turn, is required to investigate and take action expeditiously.

The first method is an *informal complaint process*, in which the harassment officer serves only in an advisory capacity to you to suggest the best method for dealing with a situation based on their experiences. Suppose you have a situation in which someone with whom you work makes you very uncomfortable by telling jokes that are full of double meaning. You feel harassed, but you don't want to file a formal complaint. You describe the problem to the sexual harassment officer, and they will generally advise you that the best way to make harassment stop is to confront the person, tell them what you find offensive, and ask them to stop. You will be asked keep a written record that you did so and give the sexual harassment officer a copy. Nine times



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out of ten this will end the matter. This method of dealing with an issue is not always easy when it involves one's peers, and it is not always possible if the person is in a supervisory role. If a verbal discussion is not possible, you might consider writing the person a letter, again describing the offensive behavior and asking that it stop immediately. A copy of the letter as a record will be requested by the sexual harassment officer, in case this approach doesn't solve the problem.

The second method is through a *formal complaint process*. Using the example above, suppose the offensive behavior continues. At this point, you tell the sexual harassment officer or your supervisor that the problem has not gone away, and the College is then bound to move forward on the complaint, and will do so through formal procedures that progress something like this:

- The formal complaint process will begin by a sexual harassment officer telling you some basic information in regard to the process, including that there will be an investigation right away, usually within three days, and ask you to either put the complaint in writing or sign a statement that they've written after hearing your verbal complaint. The sexual harassment officer will explain that all efforts will be made to ensure confidentiality as much as is possible, but they also must be consistent with the accused's right to due process. You will be told that there should be no retaliation against you for bringing the complaint forward with descriptions of what kinds of behaviors would be considered retaliatory. The sexual harassment officer will want to know if there are any other people who might be witnesses.
- The sexual harassment officer will interview the person who has been accused of harassment and any other witnesses, and keep a written record of all statements. After they have assembled all the investigative material, they will decide the complaint. Often it is one person's word against another and credibility is key. No matter what, a judgment in regard to who is more credible will be made, and will use such measures a timing of the complaint, other relevant circumstances, past incidents, and so forth. If it is determined that discipline is necessary, it will be administered in concert with the supervisor.



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If you are in a supervisory position over students or employees, you have an additional responsibility under Maine law. You are required by law to report any speech or conduct that you consider to be harassing behavior to the Saint Joseph's College Title IX Coordinator who handles sexual discrimination, harassment and misconduct.

Discipline, of course, is determined by the severity of the incident and may progress to the level of termination of the employee if necessary. Factors, such as the harasser's record of progressive discipline and conduct during the investigation, are taken into consideration. The ultimate goal of any discipline is to stop harassment from occurring.

Finally, they will contact the person who filed the complaint and let them know that either the complaint was found to have merit and discipline was taken, although they will not disclose what form of discipline has been taken, or they will say that it was determined that harassment didn't take place and no action will be taken. Either way, the decision may be appealed.

Anyone may also file a complaint with the Maine Human Rights Commission (#51 State House Station, Augusta, ME 04333 | Phone: 207.624.6290 | Fax: 207.624.8729 | Maine Relay 711), and they have a specified format for handling complaints as well. Generally, they attempt conciliation of the problem between the employer and the employee. If that fails, they will investigate the complaint themselves and may file a lawsuit seeking relief on behalf of the alleged victim. The individual also may file suit in court.

A single occurrence of a dirty joke or a wolf whistle does not constitute sexual harassment, although it may be unprofessional behavior. To be considered harassment, there generally must be a repeat of some kind of activity, unless the action is so egregious as to pose harassment in and of itself.

Kenneth Cooper, in a book titled, Stop It Now, defines six different levels of harassment that may be helpful to you in thinking about the issue. In order of severity, starting with the mildest forms, they are:



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1. aesthetic appreciation – would the statement be made in the company of your boyfriend or girlfriend or is it fit to be printed in the newspaper?
2. active mental groping – wandering eyes, staring at a woman's chest, or verbal harassment.
3. social touching – touching that carries with it sensual undertones.
4. foreplay harassment – touching with the intent of pushing the limit- such as picking lint off a woman's chest.
5. sexual abuse- hugging, grabbing, or propositioning someone with sexual comments.
6. ultimate threat- or what would be called **quid pro quo** – do it or else

It is also important to note that there is a difference between impact and intent. It is the impact of an action on the victim, not the intent of the person completing the act, that defines sexual harassment. If you are made uncomfortable by your supervisors constant references to the chest size of each passing woman, that fact that his intent was harmless doesn't matter. You have a valid complaint, and if that complaint is unheeded, both the supervisor and the College are liable before the Maine Human Rights Commission and the courts.

It is important to note that sexually related conduct may appear voluntary at the time does not diminish the likelihood of some subsequent action or complaint later being made by the person. In the example of Karen in the history class, she gave no indication that anything bothered her. But like Karen, a person may have felt coerced at the time, later regretted the exchange, and then gone on to file a complaint.