

9. Harassment, Coercion, and Discrimination

Individuals are expected to respect the rights of others. As an educational community, the University of the Pacific is committed to responsible behavior, which gives evidence of individuals having considered the ethical and social consequences of actions for oneself and for others. The University will not tolerate behavior that undermines the emotional, physical, or ethical integrity of any community member. Such proscribed behavior includes but is not limited to:

9.1 Harassment/Bias Acts

Conduct (intentional or unintentional) that has the effect of demeaning, ridiculing, defaming, stigmatizing, intimidating, slandering or impeding the work or movement of a person or persons or conduct that supports or parodies the oppression of others (examples: strippers, parties with people in "Black Face", slave auctions, etc.). These actions or behaviors include but are not limited to:

- Verbal, nonverbal, or computer generated words or symbols;
- Epithets, insults, jokes, teasing or derogatory comments;
- Behavior or physical contact that impedes or blocks movement;
- Derogatory posters, cartoons, or drawings;
- Persistent unwanted behavior that threatens or intimidates;
- Electronic postings, online communities, blogs (including University blogs).

Unlawful harassment is harassment that refers to or is based upon the protected status of the person or persons being harassed, including race, color, national origin, ancestry, sex, sexual orientation, age, religious creed, physical or mental disability, medical condition as defined by California law, marital status, citizenship status, or other status protected by law.

9.2 Sexual Harassment

Sexual Harassment occurs when an individual's behavior constitutes:

- 9.2.a. unwelcome sexual advances or touching; or
- 9.2.b. unwelcome requests for sexual favor or propositions; or
- 9.2.c. unwelcome verbal expression of or about an individual's body or sexually degrading words used to describe an individual; or
- 9.2.d. other unwelcome verbal or physical behavior of a sexual nature where:
 - Submission to such conduct is made explicitly or implicitly a term or condition of an individual's education or employment; or
 - Submission to, or rejection of, such conduct by an individual is used as the basis for academic or employment decisions affecting the individual's welfare, or
 - Such conduct has the purpose or effect of unreasonably interfering with an individual's welfare, academic, residential life or creates an intimidating, hostile or offensive educational, living or working environment
 - Prohibited acts that constitute sexual harassment include: verbal conduct such as epithets, derogatory comments, slurs or comments; visual displays such as derogatory or offensive posters, drawings or images; unwanted touching, blocking normal movement, interfering with study, work or activities; threats, demands to submit to sexual requests.

9.3. Retaliation

Retaliation by an individual or group against any other individual or group for opposing, reporting or threatening to report harassment or for participating in a related investigation, proceeding, or hearing is prohibited and will be subject to appropriate disciplinary action by the University.

10. **Policy Against Sexual Assault**

All members of the University community shall be able to pursue their interests free from sexual assault or harassment. This policy pertains to incidents of sexual assault and sexual harassment between students or where the alleged perpetrator is a student. Students who believe that a violation has occurred and the perpetrator is a student should follow the procedures outlined in this policy. In instances where a student asserts that a faculty or staff member has engaged in sexual assault or harassment, the student should promptly contact the Human Resources Department.

The University will evaluate known incidents of alleged sexual assault and sexual harassment and when appropriate apply judicial action. In accordance with Student Judicial Procedures outlined in this handbook, violations of this policy may result in sanctions up to and including dismissal or suspension from the University. Prosecution by the criminal justice authorities is not a requirement for the student judicial process to be initiated.

Definitions of Offenses

- **Sexual Assault** – Sexual assault is an umbrella term that includes: rape, statutory rape (sexual contact with a person under 18 years old), sexual battery and conduct suggestive of attempting to commit any of the aforementioned acts. Victims may be male or female.
- **Rape** – Rape is a crime of violence, anger and power, which is not always motivated by sexual desire. Rape is the sexual penetration (however slight) of the victim's vagina, mouth, or rectum without their consent. Rape involves penetration with (a) the use of force/fear or the threat of force/fear; or (b) with an individual who is unconscious or physically powerless to give consent; or (c) with a person who is otherwise incapable of giving consent, including situations where the individual is under the influence of alcohol or drugs and this condition was or should have reasonably been known to the offender.
- **Sexual Battery** – Sexual Battery is the act of making unwanted and sexually offensive contact with an intimate body part of another person or actions which cause an immediate apprehension in the other person that such an act will occur. Intimate body parts include sexual organs, the anus, the groin or buttocks of any person and the breasts of a female. Battery includes situations in which the accused engages in the contacts described with a person who is incapable of giving consent or resisting due to alcohol or drugs.

Consent

Sexual activity shall not take place unless consent has been freely given. Freely given consent includes the following conditions: participants are fully conscious; participants are equally free to act; parties have clearly communicated their willingness/permission, parties are positive and sincere in their desires; and parties are free to cease ongoing consensual activity at any time. Consensual participation in a sexual activity shows consent to that specific activity, but does not necessarily show consent to additional activity of a longer or more intense nature of an activity.