

# **Sacred Heart Seminary and School of Theology**

## **Title IX Definitions**

- A.** “Sexual Harassment” is conduct on the basis of sex that constitutes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking.
- B.** “Quid Pro Quo Sexual Harassment” is an employee of SHSST conditioning the provision of an aid, benefit, or service of SHSST on an individual’s participation in unwelcome sexual contact.
- C.** “Hostile Environment Sexual Harassment” is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person access to SHSST’s education programs and activities.

In determining whether Hostile Environment Sexual Harassment exists, SHSST will consider the totality of circumstances, including factors such as the actual impact the conduct has had on the Complainant; the nature and severity of the conduct at issue; the frequency and duration of the conduct; the relationship between the parties (including accounting for whether one individual has power or authority over the other); the respective ages of the parties; the context in which the conduct occurred; and the number of persons affected. A person’s adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment.

In no case will the expression or articulation of any position consistent with the teachings of the Magisterium of the Roman Catholic Church be deemed to constitute Hostile Environment Sexual Harassment. Furthermore, no absence of an expression or statement will be deemed to constitute Hostile Environment Sexual Harassment when such silence is consistent with the teachings of the Magisterium of the Roman Catholic Church.

Hostile Environment Sexual Harassment may include, but is not limited to:

1. Unwelcome efforts to develop a romantic or sexual relationship;
2. Unwelcome commentary about an individual’s body or sexual activities;
3. Threatening to engage in the commission of an unwelcome sexual act with another person;
4. Engaging in indecent exposure; voyeurism, or other invasion of personal privacy;

5. Unwelcome physical touching or closeness that does not rise to the level of Sexual Assault.
- D.** “Sexual Assault” includes the sex offenses of Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape.
1. “Rape” is the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. There is “carnal knowledge” if there is the slightest penetration of the vagina or anus by the sex organ of the other person. Attempted Rape is included.
  2. “Sodomy” is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
  3. “Sexual Assault with an Object” is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. An “object” or “instrument” is anything used by the offender other than the offender’s genitalia.
  4. “Fondling” is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
  5. “Incest” is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Wisconsin law.
  6. “Statutory Rape” is sexual intercourse with a person who is under the statutory age of consent as defined by Wisconsin law.
- E.** “Domestic Violence” is felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Wisconsin, or by any other person

against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Wisconsin.

- F.** "Dating Violence" is violence committed by a person –
1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  2. Where the existence of such a relationship will 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.
- G.** "Stalking" is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- Fear for their safety or the safety of others; or
  - Suffer substantial emotional distress.
- H.** "Consent" is an understandable exchange of affirmative words or actions, which indicate a willingness to participate in a mutually agreed upon sexual activity at a mutually agreed upon time. Consent must be informed, freely and actively given. It is the responsibility of the initiator to obtain clear and affirmative responses at each stage of sexual involvement. The Wisconsin state definition is: "words or overt actions by a person who is competent to give consent indicating a freely given agreement to have sexual intercourse or sexual contact." Apparent Consent can be compromised by coercion or disparity of power between the Complainant and Respondent. A person who is Incapacitated is not capable of giving Consent.
- I.** "Incapacitation" or "Incapacity" is the physical and/or mental inability, whether temporary or permanent, of an individual to make rational, reasonable decisions, or judgments regarding one's well-being or welfare.
- J.** "Retaliation" is intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulations or because an 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 policy.

- K.** “Complainant” means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.
- L.** “Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.
- M.** “Formal Complaint” means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that SHSST investigate the allegation of Sexual Harassment in accordance with this policy. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in SHSST’s Education Programs and Activities. A “document filed by a Complainant” means a document or electronic submission (such as an email) that contains the Complainant’s physical or electronic signature or otherwise indicates that the Complainant is the person filing the Complaint.
- N.** “Supportive Measures” are non-disciplinary, non-punitive individualized services offered, as appropriate, and reasonably available, and without fee or charge, that are designed to restore or preserve equal access to SHSST’s Education Programs and Activities without unreasonably burdening another party, including measures designed to protect the safety of all parties implicated by a report or SHSST’s education environment, or to deter Sexual Harassment. Supportive measures may include: counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties implicated by a report.
- O.** “Education Programs and Activities” refers to all the operations of SHSST, including, but not limited to, in-person and online educational instruction, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by SHSST. It also includes off-campus locations, events, or circumstances over which SHSST exercises substantial control over the Respondent and the context in which the Sexual Harassment occurs. SHSST’s Education Programs and Activities include SHSST-related events and activities that occur at St. Francis de Sales Seminary including, but not limited to, Theological Reflection, Integrating Seminar, and Case Study, human and spiritual formation, and liturgical practica.

Approved by the Sacred Heart Seminary and School of Theology Board of Directors

Friday, October 30, 2020