

The University of Puget Sound Glossary for Policy and Procedures Prohibiting Sex-Based Discrimination, Sexual Harassment, and Sexual Misconduct

Advisor: A person chosen by a party or appointed by the university to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

Campus: See “University Campus.”

Campus Visitor(s): All persons temporarily on Campus who are not enrolled students or employed by the University. As examples, contractors, vendors, service providers, prospective students and their families, conference, camp, program, or activity attendees, and Tacoma community members are all considered visitors to Campus.

Coercion: Coercion is conduct that would reasonably place an individual in fear and is employed to compel someone to engage in sexual activity. Coercion includes, but is not limited to, intimidation and expressed or implied threats of physical, emotional, reputational, academic or financial harm to any person. The intentional use of alcohol or other drugs to render a person incapacitated also constitutes coercion.

Complainant: Any individual who is alleged to be the victim of conduct prohibited by this policy.

Confidential Resource: Someone identified by this policy who is not required to report identifying information to the Title IX Coordinator about prohibited conduct under this policy but who must report non-identifying information to the Clery Coordinator for federal Clery Act (campus crime) reporting purposes.

Consent: Clear and unambiguous agreement, expressed outwardly through mutually understandable words and/or actions, to engage in a particular activity. Consent must be given voluntarily and cannot be obtained through coercion or force.

Consent must also be considered in context. Importantly:

- An incapacitated person is unable to give consent.
- A person who is under the statutory age of consent in the State of Washington cannot consent to sexual activity of any kind.
- Consent is not to be inferred from silence, passivity, or lack of resistance. Relying on non-verbal communication alone may not be sufficient to ascertain consent.
- Consent is not to be inferred from an existing or previous intimate relationship.
- Consent must be on-going and may be withdrawn by any party at any point, using mutually understandable terms (such as “no”, “stop”, “quit”, or other similar words) or other terms agreed upon in advance between the parties (“safe words”) and/or through mutually understandable non-verbal activity (such as stopping participation, turning away, moving away, pushing, kicking, or other similar actions). Once consent is withdrawn, the sexual activity must cease immediately.

Consent must be given at the time of the sexual activity. Consent to engage in one sexual activity is not consent to engage in a different sexual activity or to engage in the same sexual activity on a later occasion.

Day: A business day when the university is in normal operation.

Education Programs and Activities: Includes locations, events, or circumstances in which the university exercises substantial control over both the Respondent and the context in which the harassment occurs.

Final Determination: A conclusion by a Hearing Officer or other decision-maker based on a preponderance of the evidence that the alleged conduct did or did not violate the policy.

Finding: A determination by an investigator, Hearing Officer, or other decision-maker based on a preponderance of the evidence that the conduct did or did not occur as alleged (i.e. "finding of fact").

Force: The use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent for sexual activities (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.").

Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Forcible Fondling: The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Forcible Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.

Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Formal Complaint: A document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the University investigate the allegation(s).

Formal Grievance Process: A method of formal resolution designated by the university to address conduct that falls within the Policy Prohibiting Sex-Based Discrimination, Sexual Harassment, and Sexual Misconduct, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).

Grievance Process Pool: Any Investigators, Hearing Officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).

Hearing Officer: An individual who has decision-making authority within the university's Formal Grievance Process.

Incapacitation: Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

A person cannot consent if they are unable to understand what is happening or if they are disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs.

A Respondent violates this policy if they engage in prohibited activity with someone who is incapacitated, and therefore incapable of giving consent. It is a defense to a policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and may result from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs. It is not synonymous with intoxication, impairment, blackout, and/or being drunk.

Informal Resolution: An alternate resolution mechanism such as mediation (either together or separately), usually before a formal investigation takes place; or when a Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process (similar to above, but usually occurs post-investigation).

Investigator: The person or persons charged by the university with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

Notice: An employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

Official with Authority (OWA): An employee of the university who has the ability to address and correct prohibited behaviors and/or retaliation.

Parties: Includes the Complainant(s) and Respondent(s), collectively.

Privileged Resource: Someone who is not required to report any information about any conduct prohibited under this policy to the Clery Coordinator or the Title IX Coordinator as long as the Privileged Resource received the information while performing in their official capacity (though they may still be required by law to report information to law enforcement in certain circumstances).

Reasonable Person: A person in the same or similar circumstances and with similar identities. In applying a reasonable person standard, the university assumes that a reasonable person is both sober and exercising sound judgment.

Remedies: Actions taken after final determination that are directed to the Complainant and/or the community and designed to address safety, prevent recurrence, and restore access to the university's educational programs and activities or workplaces.

Respondent: Any individual who is reported to be the perpetrator of conduct prohibited by this policy, including sexual harassment or sex-based discrimination.

Responsible Employee: An employee of the university who is expected to promptly report to the Title IX Coordinator any knowledge they have that a University Community Member is experiencing sex-based discrimination, sexual harassment, other sexual misconduct, or retaliation; however, Responsible Employees are not required to report information disclosed at public awareness events (such as “Take Back the Night,” protests, “survivor speak-outs,” or other public forums in which students or employees may disclose incidents of prohibited conduct).

Resolution: The result of an Informal Resolution Process or Formal Grievance Process.

Sanction: A consequence imposed by the university on a Respondent who is found to have violated this policy.

Sex-based discrimination: Treating an applicant, employee, or student less favorably because of that person’s sex (including pregnancy, sexual orientation, or gender identity) or because of that person’s connection with an organization or group that is associated with people of a particular sex. Sex discrimination also includes using an academic or employment policy or practice that has a negative effect on men or women and that is not related to the job and necessary to the operation of the business.

Sexual Assault with an Object: The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will (nonconsensually), or not forcibly or against the person’s will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Harassment: Conduct on the basis of sex or that is sexual—regardless of the sex, sexual orientation, and/or gender identity of those involved (for a broader definition see Policy Prohibiting SexBased Discrimination, Sexual Harassment, and Sexual Misconduct).

Threat Assessment and Behavioral Intervention Team (TABIT): Responds to behaviors exhibited by students, faculty, staff, visitors and non-affiliated persons and determines if those behaviors may reasonably pose a threat of violence to others or the university community.

Title IX Coordinator: The official designated by the university to ensure compliance with Title IX and the university's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

University Building(s): Any and all structures owned and controlled by the university; provided, however, that university property used for the sole purpose of providing housing for faculty and staff is exempt from this policy.

University Campus (or “Campus”): Any and all University Buildings (permanent and temporary structures) and University Grounds (outdoor spaces including, but not limited to, athletic spaces, sidewalks, and fields) owned and controlled by the university.

University Community Member(s): For purposes of this policy, these are university students, student organizations, faculty, and staff members

University Grounds: Any outdoor space owned and controlled by the university, including but not limited to athletic spaces, sidewalks, and fields.