

Respect Matters: Understanding Title 9 at Utica College

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Part 1: Introduction

My supervisor always asks me who I'm dating and what we did over the weekend.

One of my students just told me that someone grabbed her at a party and she was really upset.

My office mate sends sexually explicit jokes to me by email.

I stopped going to class because my instructor kept touching my shoulder and back.

I heard a staff member tell one of the work study students how "hot" she was.

My ex shows up wherever I am and sends me flowers and gifts.

What is this training about?

Do any of these phrases sound familiar? Have you ever wondered what to do in any of these situations? This training is intended to give you information about: Title 9, sexual harassment and sexual violence, what our responsibilities are as a college when responding to these situations, and what you can do when something like this happens.

Before we start with information about Title 9 and sexual harassment you need to know that this training is not only the right thing to do but it is mandated by law. As a result we need to know who has completed the training and that they have done so successfully.

Once you finished the training you be asked to answer a few questions to ensure you have the key information we believe you need as a member of the Utica College community.

So first let's take a look at what Title 9 is and what that means for you at Utica College.

Part 2: Overview

Please read this important information in its entirety, and take as long as you need before moving on. It will give you a broad overview of Title 9 and what it means for Utica College.

Title 9 is a federal law that prohibits discrimination on the basis of sex in educational programs or activities that are receiving Federal financial aid assistance. While it is most often connected with gender discrimination in sports, it also covers all forms of sexual harassment, including sexual violence, as they too are considered forms of sex discrimination.

On April 4th, 2004, the US Department of Education Office of Civil Rights put out a "Dear Colleague" letter to remind educational institutions of the responsibility we have under Title 9 to take "immediate and effective" steps to respond to sex discrimination.

Some of the obligations we have under Title 9 require us to:

- Designate a Title 9 Coordinator and if necessary, a supporting coordinator structure to oversee the College's Title 9 compliance efforts, complaint handling, and education.
- Educate all members of the college community on an annual basis on Title 9 responsibilities.
- Take immediate, appropriate action once we know or reasonably should know about possible sexual harassment or sexual violence. This includes a prompt investigation, which could take up to 30 days to conclude depending on the scope of the investigation.
- Take prompt, effective steps to end the sexual harassment or violence, prevent its recurrence, and address its effects.
- Protect the person who makes a complaint under Title 9 to the extent possible.
- Publish a notice of non-discrimination and provide a grievance procedure for the college community.
- Use a "preponderance of the evidence" standard to the best of our ability when determining the outcome of a Title 9 complaint.
- Notify both parties of the outcome of a Title 9 complaint.

Part 2 Overview continued:

It is important for all members of the Utica College community to be aware of our non-discrimination policy. Utica College is an equal opportunity, affirmative action institution. This means that we accept students and employ individuals without regard to a number of identities and group memberships. Our policy covers admissions, employment, and access to and treatment in Utica College programs, services and activities.

We also have a sexual harassment policy that shows Utica College's commitment to providing an environment that supports, nurtures, and rewards progress on the basis of relevant factors such as learning and work performance. Sexual harassment cannot be a

part of such an environment and will not be tolerated in any form or context. As members of the college community, we all have a responsibility to do our part to ensure that the College is free from all forms of sexual harassment.

The sexual harassment policy pertains to all students, faculty, and staff members of Utica College. It also pertains to independent contractors, visitors, volunteers, alumni and others who represent the College. It covers all educational, academic, athletic, extracurricular, and other college programs including those that occur off campus.

Part 3: Scenarios

Following are a couple of scenarios to get you thinking about Title 9 and how certain situations may have Title 9 implications.

Scenario 1

Kevin is taking an English course, his midterm writing assignment dealt with his uncertainties about himself as a writer and college student. The teacher chooses to do a mid-semester evaluation class at the teachers home and reschedules the class to meet in the evening that week. It is however at a time that Kevin cannot attend. When Kevin gets his essay back it has a no grade and only one comment. The comment states concerns about how Kevin being the only male in the class and how that seems to have affected his writing and his participation in class, the comment ends with please see me. When Kevin goes to his teacher's office during posted office hours his teacher suggest that they meet less formally, perhaps over dinner to talk over the essay

given that the rest of the class had done so at the teacher's home. When Kevin refused to do so, his teacher indicates that no other time will be made to go over his essay.

Is this sexual harassment? Why or why not? At what point would you consider this professor's behavior to be problematic, if you would. To what degree would you reinterpret the faculty member's behavior: depending on his or her gender, his or her age, or his or her length of tenure at Utica College?

Scenario 1 Wrap-up

Now that we walked through definitions of sexual harassment, let's take another look at our first scenario and the questions we've asked.

Would you consider this to be sexual harassment? This scenario does have some grey areas. If Kevin came to somebody for assistance and the college began an investigation, we would raise several questions. We don't know if this is a pattern of behavior and how it affects Kevin's behavior and his ability to participate in the course from the faculty member's perspective the comment about Kevin being the only male in the course could be intended to be helpful in terms of the impact that dynamic has on Kevin and his participation in class.

That comment combined with the comment "let's meet less formally, perhaps over dinner" with no other option to review Kevin's paper becomes more problematic however. If Kevin has been made increasingly uncomfortable and feels as though this is having an impact on his ability to participate in and succeed in class, we would at the very least follow up with the faculty member and question.

Remember, Title 9 covers gender bias as well as sexual harassment and the professor's actions called this into question, even if not intended to do so.

In terms of the faculty member's gender, age or length of tenure at Utica College some of that information might be helpful in terms of understanding how experienced this faculty member might or might not be as a result. That might affect how we would intervene with the faculty member. Gender however does not rule out or rule in sexual harassment or gender bias. As definitions does not rely on the gender perceived to be engaging in the harassing behavior.

Scenario 1 Wrap-up continued

Remember definitions of sexual harassment begin with how the behavior is perceived by the person who is the target of the behavior, not with the intentions of the person engaging in the potentially harassing behavior.

Now let's take a look at more specific examples of what we might consider sexual harassing behavior...

The Sexual Harassment Spectrum of Behavior Patterns

This slide provides information regarding a spectrum of behavior patterns that could be construed as sexual harassment. While some behaviors may be considered more egregious than others and the impact on individuals may vary all of these could be considered offensive, potentially harmful to one's physical or mental or emotional well-being, and may be illegal.

Sexual harassment could be (and these examples are not all-inclusive):

Visual, including behavior such as ogling, staring, or sharing inappropriate posters, magazines or fliers.

It could be verbal such as requesting dates, asking about one's personal life, making lewd comments, telling dirty or sexual jokes, or whistling.

Sexual harassment could be written, through love poems or love letters, obscene poems or letters, or cards.

It can come via touching, violating one's space, patting, grabbing, pinching, caressing, or kissing.

Some sexual harassment comes through power positioning, or using relationships or positions of power to request dates or sex.

Threats can be a form of sexual harassment, such as quid pro quo threats, demands, threats of loss of a job or threats of being left out of a selection process if sexual demands are not met.

Finally, sexual harassment can be forceful and violent, as is the case with rape or physical assault.

The offensive conduct could be considered illegal, but in cases where explicit demands are made it is always illegal.

As you consider the broad spectrum of potentially harassing behaviors, please take note of the following:

Sexual harassment can and does occur between peers as well as between those who have a more supervisory relationship. While the potential ramifications of that behavior may vary and that a supervisor has more structural power than a peer, and the avenues for addressing those behaviors may vary. The impact on the individual who is the target of those behaviors can be just as significant.

Sexual harassment can lead to a wide variety of reactions. There could be psychological reactions of fear and anxiety of bodily harm, poor peer impressions, or job loss. There could be self-blame or guilt, embarrassment, anger, loss of self-esteem or severe emotional distress.

Physical reactions to sexual harassment can include signs of bodily harm, ulcers, headaches, and other stress-related symptoms. There could also be economic reactions in the way of low productivity at school or work, transfers out of the school or to a new job, or just turnover in general.

It is important to note that not all harassment may be intentional; however, sexual harassment and gender bias is determined not by intention but what the actions were and how the target of those actions perceives the behavior.

Scenario 1 Wrap-up continued

For the most part we look at whether a reasonable person might find behaviors in question, problematic. Gender, age, and other demographic variables do not determine whether or not sexual harassment has occurred. Although the ways in which they affect the perception of the individuals involved may be taken into account as we look at what happened. While electronic

forms of communication such as texting emailing or tweeting are not explicitly referenced sexual harassment can and does occur through those media.

What might be a clearer cut example of sexual harassment? Let's look at the scenario with John and Dolores, who are faculty members sharing an office.

Scenario 2

John and Dolores are faculty members in the same department and share an office together.

Dolores has been teaching at U.C for two years. This is John first teaching position in an American University, and Dolores ends up spending quite a bit of time with John helping him to orient him to Utica and the U.S in general as well as Utica College. Dolores is flattered at first by John's compliments on her attire and her looks. The first time he puts an arm around her shoulders when they walk into the office together, she moves away a little but says nothing.

Dolores begins receiving emails from John that bordered around suggestive, talking about how pleasurable it is to share an office with such an attractive colleague. Dolores finds herself looking for ways to not be in the office along with John and considers changing her office hours.

Scenario 2 continued

At one point however, Dolores and John are in the office together and find themselves in a fairly intense conversation about their students and other work related issues. John leans over gives Dolores a hug and suggests they continue their conversation over dinner and drinks. Dolores decides to let John know that she is increasingly uncomfortable with their interaction. To which

John replies that in his culture this is simply a way to let beautiful and intelligent woman know that they are appreciated. When she reiterates that she does not want his behavior to continue he apologizes for any misunderstandings. As they get up to go, John says he's glad that they had worked this out and pats Dolores on the rear end.

Is this sexual harassment? Why or why not, If only part of the behavior is sexual harassing, which behavior and why? How valid are arguments that behavior needs to be considered in the context of the perceived harassers' cultural background. What would your response be if Dolores didn't share an office and exchanges were made online, through email or other such avenues? How would your thoughts or feelings about this situation change if John was Dolores department chair person or dean of her division?

Scenario 2 Wrap up

We've asked you if John's behavior would be considered sexual harassment. You may have already come to the conclusion that based on Dolores' response the answer is yes. If you look at the spectrum of behaviors and the definition of behaviors that we reviewed, John's continued compliments and physical contact have clearly had a detrimental impact on Dolores's work environment, including the possibility of changing her office hours to avoid John. Even though

Scenario 2 Wrap up continued

His behavior throughout have been problematic John certainly crossed the line when Dolores told him she was uncomfortable and despite saying her understood he patted her on the rear end. While it is not an expectation that Dolores has to say something about his previous behavior for this to be considered to be sexual harassment. John has just disregarding very clear information about Dolores' boundaries and her perception of his behavior.

Culture is a difficult variable to assess in terms of its impact on an individual's behavior. Part of our responsibilities as an institution is to make sure all employees and students understand our expectations for behavior regardless of prior experiences elsewhere. However, coming from a different culture can affect an individual's understanding of the impact of their behavior. The resulting institutional response to John might be both educational and disciplinary. But cultural differences do not lessen an individual's responsibility for his or her behavior. Finally, how would your thoughts change if John was Dolores's departmental chair person or dean? For the most part this behavior is inappropriate whether of that of a peer or superior. It could however make it even more difficult for Dolores to decide how to respond. In some cases Dolores might want to talk with her director or dean about a peer's behavior. She would need to consider other options if John was her superior. In addition potential ramifications for both addressing the behavior with John and reporting his behavior to others could be more significant given a difference in status and power.

Part 4: Definitions

Please read these key definitions in their entirety. These definitions are important to your understanding of sexual harassment, and Title 9 in general.

Quid Pro Quo

"Quid Pro Quo" literally means "this for that". In a "quid pro quo" sexual harassment situation, the person who is perceived to be sexually harassing is most often one who is in a position of power, such as a supervisor, manager or faculty member. The target of these behaviors is usually an individual who feels he or she must perform or respond to a sexual advance in order to gain something in return. That might mean a grade, a recommendation, or a promotion will only be given if you agree to whatever the sexual request is. It is important to note that it is not necessary for the person who is the target of the behavior to respond or act upon the request for the sexual harassment offense under "quid pro quo" to apply.

Hostile Environment

Under "hostile environment", the target of the behavior must show that there is a general pattern of conduct by the person who is perceived as being sexually harassing. To be classified as sexual harassment, there must be a pattern established and this pattern must have a negative impact on your ability to work in that setting or participate in your education. It is important to note that the victim of the "hostile environment" sexual harassment does not have to have responded to the behavior or confronted the person who is engaging in the behavior to meet the "hostile environment" standard. In addition, the person concerned does not necessarily have to be an individual who is directly involved. That is to say, if a "bystander", so to speak, is offended by repeated harassment among other individuals, he or she may follow the same process to report alleged sexual harassment.

Part 4: Definitions continued

Sexual Harassment

Sexual harassment is unwelcome conduct that is sexual in nature.

Whether it is quid pro quo harassment or harassment that creates a hostile work or educational environment, sexual harassment is unwelcome conduct that is sexual in nature, and has the negative side effects we just described. It is important to know that sexually harassing behavior can be engaged in by college employees, students, and even third parties who are perhaps visiting or contracted to do work with the college. It can involve individuals of the same or different gender and can occur on or off campus - for example at retreats, training programs, or other off campus events. Sexual harassment can occur in person or it may involve electronic or social media.

The point is that it can occur anywhere and in many different ways, sometimes in ways that are not as obvious as others. It is important that we are aware of the wide range of potentially harassing behavior.

Part 5: Title Complaint Procedure

Following is a step by step walk-through of the Title 9 Complaint Procedure. Please note that this is a general illustration, and that each case is different and therefore may require some additional steps. Let us begin.

1. A Complaint is filed.

A complaint may be filed by any member of the Utica College community

(Including students, student employees, alumni, faculty, staff members, administrators, contracted employees or outside vendors.)

2. The complaint is forwarded to the Title I9 Coordinator
3. An investigator team interviews parties
4. The investigator team reports findings to the Title I9 Coordinator

Is it more likely than not that a Title I9 violation occurred?

If the answer is Yes, then:

For Employees: The process for progressive discipline is followed as outlined in the employee handbook, collective bargaining agreement, and/or policies through the third party contractor. Any resulting discipline is in accordance with those policies and procedures.

For Students: Action is taken through the student conduct system. Any sanctions imposed result from the outcome of that process.

If the respondent is anyone other than a student, active employee or faculty member, or a third party contracted employee, the College will take appropriate administrative action.

Finally, results of the investigation are communicated to both the compliant and the respondent.

If the answer is No, and a Title 9 violation did not occur , then:

The investigator team (or HR) responds to both parties that there was not a finding that a Title I9 violation had occurred.

Appropriate remedial steps are taken (training, policy review, educational programs, etc.) as necessary.

All information is documented and the case is closed.

Part 6: Title 9 and Intercollegiate Athletics: Related Policies at Utica College

Although Title 9 prohibits sex discrimination campus-wide, it has been defined to apply to intercollegiate athletics in three specific areas: Participation, Scholarships and Treatment of Existing Athletes and Programs. Title 9 compliance requires equity as that term has been defined under the law in each of these three areas. Because Utica College is a NCAA DIII school, however, the area of athletic scholarships does not apply.

Understanding Title 9 in Athletics

Participation

Utica College believes that all students have a right to participate in an athletic program free of discrimination, including sexual harassment and retaliation. Utica College believes in the educational value of intercollegiate athletics and as such offers competitive NCAA Division III athletic programs with core conference membership in the empire 8.

Title I9 provides three separate avenues for compliance in relation to the accommodation of interests and abilities portion of Title I9.

- 1) Provide participation opportunities for women and men that are substantially proportionate to their respective rates of enrollment as full-time undergraduate students/
- 2) Demonstrate a history and continuing practice of program expansion for the underrepresented sex.
- 3) Fully and effectively accommodate the interest and abilities of the underrepresented sex.

Treatment

Understanding Title 9 Athletics

Title I9 expects its athletic programs to treat its male and female student's athletes equally with regard to the following areas:

- a. The provision of equipment and supplies;
- b. Scheduling of games and practice time;

- c. Travel and per diem allowance;
- d. Opportunity to receive coaching and academic tutoring;
- e. Assignment and compensation of coaches and tutors;
- f. Provision of locker rooms, practice, and competitive facilities
- g. Provision of housing and dining facilities and services;
- h. Publicity
- i. Recruitment

In addition to the Title 9 Coordinator, concerns about gender equity in athletics may be raised with David Fontaine, Director of Athletics and Physical Education, who serves as a Deputy Title 9 Coordinator.

Part 7: Resources

Know your Resources:

Following is a list of confidential sources of support and additional resources that will help you should you ever be faced with a Title 9 concern, in any capacity.

Confidential Support:

Student Health Center

Office of Counseling and Student Development

Father Paul Drobin

Employee Assistance Program

Additional Resources

Office of Campus Safety

Office of Student Affairs

Office of Human Resources

Academic Support Services

Office of residence Life and Residence Life Staff

Office of civil Rights

Following are the names of your official Title 9 coordinators at Utica College:

The institutional Title I9 Coordinator is Lisa Green, Assistant Vice President of Human Resources and Personnel Development.

The Deputy Title I9 Coordinator for Students is Alane Varga, Dean of Students.

The Deputy Title I9 Coordinator for Athletics is David Fontaine, Director of Physical Education and Athletics.

This concludes the instruction portion of our Title I9 training. Thank you for paying close attention to this important information.

You may now proceed to the quiz to test your knowledge.

Part 8: Quiz

This quiz will measure your knowledge after participating in this training session. Please read each question carefully before clicking your response to the question. Completing each question is very important as it will help the College identify areas in which we can direct future training.

TITLE IX TRAINING QUIZ:

Number 1. True or False. Title 9 prohibits discrimination on the basis of sex in all student services and academic programs.

- ☐ True
- ☐ False

Number Two. Which of the following could be considered to be an act of sexual harassment?

- ☐ A. Continually asking about, or commenting on, someone's personal life, particularly in terms of dating or sexual relationships.
- ☐ B. Sending poetry, flowers, and other gifts.
- ☐ C. Complimenting someone on how nice they look that day.
- ☐ D. Posting sexually suggestive cartoons in a shared, public space.
- ☐ E. All of the above.

Number 3. True or False: If a student or employee comes to you with something you consider to be an immediate danger, such as a sexual assault, your first step would be to contact Campus Safety at extension 3046.

- ☐ True
- ☐ False

Number Four. Per Title 9, what are the three prongs colleges must meet to demonstrate that its intercollegiate athletic program participation is being offered in an equitable manner?

- ☐ A. Participation opportunities for male and female students are provided in numbers that are proportionate to the number of full-time undergraduate enrollments.
- ☐ B. The institution has a history and practice of expanding programs that are of interest and ability to the underrepresented sex.
- ☐ C. The interests and abilities of the members of the underrepresented sex have been fully accommodated by the present athletics team.
- ☐ D. All of the above.

Number 5. Which of the following are resources you can access to help with Title 9 questions or concerns?

- ☐ A. Title 9 Coordinators.
- ☐ B. Utica College's Title 9 website which can be found at <http://www.utica.edu/college/t9/index.cfm>.
- ☐ C. Office of Human Resources, Office of Student Affairs, Athletics Office, Office of Campus Safety.
- ☐ D. All of the above.

Number 6. True or False: All employees and students are able to conduct Title 9 investigations.

- ☐ True
- ☐ False

NAME: _____

DATE COMPLETED: _____/_____/_____

COMPANY: _____