### Sexual Misconduct Offenses

Sexual misconduct offenses are determined based on policy violations. Further information concerning legal descriptions and statutes of sex offenses, according to Missouri law, can be found in [Appendix 1](#_Appendix_1:_). Specific offenses under the university’s sexual misconduct policy include sexual harassment, non-consensual sexual contact (or attempts to commit same), non-consensual sexual intercourse (or attempts to commit same), intimate partner violence, sexual exploitation, and stalking.

##### Sexual Harassment

Sexual harassment is: unwelcome; sex-based; and verbal, written, online, and/or physical conduct. It is a form of sex discrimination covered by Title IX and takes three forms: Hostile Environment Harassment, *Quid Pro Quo* Harassment, and/or Retaliatory Harassment.

A **Hostile Environment** is created when sexual harassment is

* Severe, or
* Persistent or pervasive, and
* Objectively offensive, such that it unreasonably interferes with, denies, or limits someone’s ability to participate in or benefit from the university’s education or employment programs.

Examples may include: a student repeatedly sending sexually oriented jokes, even when asked to stop, causing one student to avoid the other; a professor engages in discussions with students about past sexual experiences, irrelevant to course material, and requires student to respond even though they are uncomfortable and hesitant; an “ex” spreads false stories about sex life with former partner to the clear discomfort of the other.

A hostile environment can be created by persistent/pervasive conduct or by a single severe episode. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment.

***Quid Pro Quo*** Harassment is:

* Unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature, and
* By a person having power or authority over another, and
* When submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating, evaluating, or providing a benefit to an individual’s educational or employment progress, development, or performance.

Examples may include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual request; to condition a benefit on submitting to sexual advances.

Often, sexual harassment involves relationships of unequal physical power or unequal power of authority, and, therefore, can contain elements of coercion and threat. Consequently it is University policy to strongly discourage any consensual relationship involving a subordinate employee or student that could lead to alleged or actual sexual harassment.

**Retaliatory Harassment**

Retaliation is any adverse action taken against a person participating in a protected activity because of their participation in that protected activity.

An example may include: a student alleges sexual misconduct by another student and the institution begins an investigation. The responding party is angry at the reporting party and while the investigation is ongoing, the responding party spreads rumors and pictures of the reporting party on social media. This action likely constitutes both hostile environment and retaliatory harassment.

##### **Intimate Partner Violence**

A pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other intimate partner.

* Violence can be physical, economic, emotional psychological, and/or sexual, or threats of actions that influence another person
* Any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound a person who is or was in a social relationship of a romantic or intimate nature with the victim. Existence of relationship will be determined based on the reporting party’s statement and with consideration of: length of the relationship, type of relationship, and frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse/violence or the threat of such abuse/violence.

##### Nonconsensual Sexual Contact

Non-consensual sexual contact is defined as:

* any intentional sexual touching,
* however slight,
* with any object (or body part),
* by a person upon another person,
* without [consent](#_Definitions_of_Other) and/or by [force](#_Definitions_of_Terms) (physical violence, threats, intimidation, coercion, or incapacitation).

Sexual contact includes: intentional contact with breasts, buttock, groin, or genitals; or touching another with any of these body parts: or making another touch you or themselves with or on any of these body parts; or any other intentional bodily contact in a sexual manner.

##### Nonconsensual Sexual Intercourse

Non-consensual sexual intercourse is defined as:

* any sexual intercourse,
* however slight,
* with any object (or body part),
* by a person upon another person,
* without [consent](#_Definitions_of_Terms) and/or by [force](#_Definitions_of_Terms) (physical violence, threats, intimidation, coercion, or incapacitation).

Intercourse includes vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration.

##### Sexual Exploitation

Occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but not limited to:

* Invasion of sexual privacy or engaging in voyeurism;
* Prostituting another person;
* Unauthorized sharing/distributing digital, video or audio recording of nudity or sexual activity;
* Exceeding boundaries of consent to sexual activity;
* Knowingly exposing someone to or transmitting an STI, STD, or HIV to another person;
* Intentionally or recklessly exposing one’s genitals in non-consensual circumstances; inducing another to expose their genitals.
* Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

##### Stalking

A pattern of conduct which may include communication by any means, with no legitimate purpose that puts another person reasonably in fear for his or her safety or would cause a reasonable person under the circumstances to be frightened, intimidated or emotionally distressed. May include:

1. Nonconsensual communication including, in-person communication, telephone calls, voice messages, text messages, email messages, social networking site postings, instant messages, postings of pictures or information on websites, written letters or notes, gifts, or any other communications that are undesired and/or place another person in fear;
2. Following, pursuing, waiting, or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by the person being targeted by the behaviors;
3. Surveillance and other types of observation, whether by physical proximity or electronic means;
4. Trespassing or vandalism;
5. Non-consensual touching;
6. Direct physical and/or verbal threats against a person being targeted or that person’s friends, family members, or animals;
7. Gathering information about another from that person’s family, friends, co-workers, or classmates;
8. Manipulating and controlling behaviors such as threats to harm oneself or threats to harm someone close to the target of the behaviors; and
9. Defamation and slander of the person being targeted.

##### OTHER MISCONDUCT OFFENSES

Any other University policies may fall within the Sexual Misconduct Policy when a violation is motivated by the actual or perceived membership of the reporting party’s sex, including, but not limited to:

1. **Bullying**--repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally;
2. **Discriminatory Behavior**--actions that deprive other community members of educational or employment access, benefits or opportunities on the basis of sex (See also *Nondiscrimination Policy)*. Discrimination may also be seen in unwelcome verbal or physical conduct, such as:
	* epithets, slurs, denigrating jokes or negative stereotyping;
	* threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers health or safety;
	* written or graphic material that degrades or shows hostility or aversion;
	* pranks or horseplay intended to embarrass or humiliate;
	* imposing submission to unwelcome verbal or physical conduct;
3. **Hazing**--acts likely to cause physical or psychological harm or social ostracism to any person within the university community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (See also *Hazing Policy*);
4. **Intimidation**--implied threats or acts, whereby someone uses power or influence to place another person in reasonable fear of harm through threatening words and/or other conduct.
5. **Retaliation**--An individual’s adverse action against another person because that person has filed a complaint or participated in providing relevant information an investigation.
6. **Threat**—A direct threat of bodily injury that causes someone to do something they would not have done absent the threat.