

# Preventing and Responding to Sexual Harassment in the Breakroom and Classroom

What the #metoo Movement Means for Faculty  
Supervisors

## Hall Talk

Cary stops you in the hall to catch up and ends up discussing an uncomfortable incident that occurred while attending a conference with a faculty advisor in your department. Cary's advisor reportedly introduced Cary to Pat, a faculty member from a sister institution who shares Cary's research focus. Pat offered to meet with Cary to discuss a paper topic Cary is pursuing. When Cary asked for Pat's availability, Pat offered to meet Cary in Pat's hotel room that evening. Cary was eager to meet with Pat and yet felt uncomfortable going to Pat's hotel room alone. Pat became agitated when Cary hesitated and told Cary to take it or leave it because Pat was very busy and was only offering the meeting as a courtesy to Cary's advisor.

## Sexual Harassment under Title IX, Title VII, and University Policy

- ▶ Was the University's sexual harassment policy potentially breached?
- ▶ Is Cary a student or employee in this context? Does the status of the individual making the claim matter?
- ▶ How would the rights of the student differ depending on status as student or employee?
- ▶ What are your obligations when you receive a report like this, and how would your obligations differ based on the student or employee status of the individual making this report?
- ▶ Does it matter that this incident occurred off campus?
- ▶ Is it significant that the alleged bad actor is employed by another institution?

## Reporting Obligations

- ▶ All faculty members are responsible employees and must share information about sexual or interpersonal misconduct involving UNC Charlotte students with the Title IX Coordinator. Likewise, supervisors must report concerns implicating the University's policy prohibiting sexual harassment to the Title IX Coordinator.
- ▶ Students and employees need to know that you cannot keep this information confidential (standard syllabus language available at <http://legal.uncc.edu/legal-topics/classroom-policies-and-practices>)
- ▶ Contact Michelle Reinken, Title IX Coordinator
  - ▶ 7-6130, [Michelle.Reinken@uncc.edu](mailto:Michelle.Reinken@uncc.edu)
  - ▶ Report online at [incidentreport.uncc.edu](http://incidentreport.uncc.edu)
  - ▶ Note that Michelle is very willing to talk through hypotheticals and/or help troubleshoot situations with you!

## Confidentiality

- ▶ Only these places on campus can provide confidentiality for students:
  - ▶ Counseling and Psychological Services (CAPS)
  - ▶ Student Health Center
  - ▶ Center for Wellness Promotion
  - ▶ Psychologists in Athletics Department
  
- ▶ Title IX Office will keep information as private as possible, only involving individuals who need to know
  
- ▶ Victims/survivors are very much in control of the process even once their incident has been reported (including deciding whether to engage with Title IX Office, whether to move forward with an investigation, and whether to involve police)

## The Rumor Mill

Jake was recently appointed Chair of a department known for some pretty colorful characters. During his tenure with the Department, he has overheard, if not actively participated in, multiple conversations about a Professor known to have solicited, with varying degrees of success over the course of at least two decades, romantic relationships within the Department. As far as Jake is aware, no one has ever officially complained about the incidents, and everyone tends to minimize the significance of the rumors and seems to regard the Professor as a valuable member of the team. Because of the Professor's status and proven ability to attract research funding, Jake is eager to connect the Professor with a new Assistant Professor who shares a similar research focus. The Assistant Professor, however, balks at the Jake's offer, having overheard from colleagues in the Department about the Professor's alleged proclivities. The Assistant Professor has also had some unpleasant personal interactions with the Professor, but declines to describe them to Jake.

## “Knew or Should have Known”

Does Jake have any obligation to formally or informally review the rumors circulating in the department?

What about the report from the Assistant Professor of a concerning interaction with the Professor?

Does it matter that the Assistant Professor has specifically expressed a disinterest in discussing the matter further?

What impact can or should “star status” have on the manner in which the University responds to complaints?

If an investigation ensues and multiple witnesses are asked to participate in a review of the concerns, what if any right to information do the witnesses have to be advised of the outcome of the review, including any sanctions imposed?

How might the #metoo movement inform faculty complainant and witness expectations in these contexts?

## It's My Party

Following a protracted investigation, the University issued a decision finding that there was insufficient evidence to conclude that Professor X in your department was sexually harassed by Professor Y. During the course of the investigation, Professor X sent an email to the entire department outlining the complaint and expressing concerns about the University's inaction in response to the complaint.

Prior to receiving notice about the harassment complaint, you asked Professor X to organize the department's annual holiday gathering. You now learn that Professor X did not invite Professor Y. The shunned Professor Y asks what you plan to do about it.

## Supervisor as Mediator

- ▶ Would failure to invite an individual to a social event constitute actionable retaliation under Title VII or otherwise violate applicable University policies addressing this issue?
- ▶ Did the complainant in this scenario potentially violate applicable law or University policy?
- ▶ What is the role of the supervisor in these circumstances?

## Retaliation under Title VII and University policies

- ▶ University policy and applicable federal law strictly prohibit retaliation against individuals who bring or cooperate in the University's investigation of complaints alleging violations of the University's nondiscrimination policies.
- ▶ In order to be considered actionable, the allegedly retaliatory action must be reasonably likely to dissuade an employee from engaging in a protected activity, such as filing a good faith complaint or cooperating in the investigation of any such complaint.
- ▶ Actionable retaliation may include work-related and non-work-related actions.

## Important Takeaways

- ▶ When in doubt, report! The University offers resources and support to supervisors navigating complaints or issues that may implicate our policies prohibiting sexual harassment. Contact the Title IX Office or Academic Affairs in order to discuss reported concerns or observed or suspected behaviors to ensure you are taking the appropriate steps in response to the concerns.
- ▶ When reporters are reticent, remind them of their protection from retaliation and their right to confidentiality.
- ▶ Keep it confidential! Supervisors may be confronted by witnesses and others inquiring about whether an investigation has been launched and what the outcome might be. It's important to remember that both complainants and respondents are entitled to confidentiality in these contexts, and information can only lawfully be shared on a need-to-know basis—meaning the individual inquiring is either a party (not witness) or an administrator who is tasked with responding to the reported concerns. In order to ensure the parties' confidentiality rights are not breached, consult with Title IX, Academic Affairs, or OLA to ensure any requested information may be lawfully disclosed.
- ▶ Engage your support services! You are not alone. Supervisors are not responsible for investigating or responding to concerns independently. If you receive complaints from others about the University's handling of complaints or concerns, let Title IX, Academic Affairs or OLA know, so that we can collaborate on a lawful and appropriate response that may mitigate the concerns, without breaching confidentiality obligations.

## Support Services for Complainants and Respondents

- ▶ [Title IX](#) provides complainants and respondents with information regarding available support services.
- ▶ The investigatory process can be very stressful for both the complainant and respondent as well as witnesses. Please ensure they are made aware of resources available to them.
  - ▶ For students, the University's Center for [Counseling and Psychological Services](#) may provide confidential counseling services.
  - ▶ For employees, the [Employee Assistance Program](#) may provide confidential counseling services.