

**University of Central Florida
Office of Institutional Equity**

Discrimination: Descriptions, Prevention

DISCRIMINATION AGAINST STUDENTS BASED ON SEX: TITLE IX OVERVIEW

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(For specific strategies used when a student discloses sexual violence, please see Title IX Toolkit for Assisting Students)

I. Background

The University of Central Florida promotes access to its educational programs and activities consistent with federal statutes, state regulations, and UCF Regulation 3.001, Non-Discrimination; Affirmative Action. The University takes prompt action to investigate student complaints of sex discrimination under Title IX, Florida Board of Governors Regulation 2.003, and the UCF regulation, providing corrective actions when appropriate.

Title IX's implementing regulation provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. The University receives federal financial assistance, so Title IX applies to UCF's programs – and, by extension, provides protections to UCF students.

Sex discrimination means adverse treatment based on the student's birth sex, male or female.

Complaints still may be valid even though the alleged discriminating official or alleged perpetrator is the same sex as the student. "Sharing the same protected class" is not a valid defense to the prohibited conduct.

Sexual harassment is a form of sex discrimination prohibited by Title IX. Sexual harassment is unwelcome conduct of a sexual nature that creates a hostile environment or which is designed to exploit an unequal power relationship. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence.

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Sexual harassment of a student creates a hostile environment if the conduct is sufficiently severe or pervasive that it interferes with or limits a student's ability to participate in or benefit from the recipient's program.

When responding to reports or allegations of sexual harassment, the University must take prompt and effective action to investigate or otherwise determine what occurred. If the University receives a credible report or an investigation reveals unlawful harassment, the University must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.

The University must take these actions whether a student has complained, asked the University to take action, or identified the harassment as a form of discrimination.

II. Examples of discrimination against students, based on sex, including sexual harassment

Prohibited conduct includes treating a member of one sex differently than the other, based on sex. That different treatment must have the effect of excluding the individual from participation in, or denying the individual the benefits of, or subjecting the individual to discrimination within, the program or activity. Common examples of discrimination against students based on sex include:

- excluding an individual from a program or service based on sex
 - Limiting applicants' access to certain majors or program specialties based on sex
 - denying an academic opportunity to a pregnant student because she is pregnant
 - providing less than a fair share of funds for athletic scholarships to females
- subjecting a student to unwelcome sexual advances or requests for sexual favors
 - verbal or physical conduct of a sexual nature when an individual must submit as a term or condition of employment, enrollment, or use of campus facilities or programs
 - creation of a hostile environment. The harassment is unlawful when it is so severe that it alters the conditions of employment, enrollment, or participation and creates an abusive environment based on sex. For the specific definition, see University Regulation 3.001.

The University of Central Florida prohibits sexual harassment. The University prohibits romantic and sexual relationships between employee and student or between supervisor and employee when that relationship constitutes a conflict of interest. That may occur even when such relationships appear, or are believed to be, consensual.

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Common example of sexual harassment of students:

- offering to record a higher grade than earned if a student will submit to sexual advances, or
- threatening to record a lower grade than earned unless a student submits to sexual advances
- showing or transmitting sexually graphic photos against a student's wishes
- making sexual comments, including comments about an individual's body, body parts, or sexual activities, against a student's wishes
- creating a hostile, intimidating, or offensive environment based on sex: derogatory remarks about one sex; graphic images of one sex displayed in class, immaterial to the curriculum; indicating that anyone who protests the hostile environment will face negative consequences in reference letters or recommendations for academic honors

This conduct is unlawful when it is so severe, persistent, or pervasive that it creates a hostile, intimidating, or offensive learning environment.

The University's non-discrimination regulation prohibits acts of retaliation, as well as harassment, within the definition of discrimination. Retaliation consists of an adverse action, taken against an individual who complained or threatened to complain or who served as a witness in a discrimination complaint, based on that individual's involvement. UCF Regulation 3.001 prohibits retaliation against someone who opposed an unlawful educational practice or policy, or participated in any complaint action under Title IX.

III. Specifics on treatment of pregnant students

Title IX prohibits sex discrimination against students, which includes treating a pregnant student differently from non-pregnant classmates.

The University of Central Florida encourages non-discriminatory treatment of pregnant students, such as in these examples:

- The University judges technical skills for all applicants seeking admission to a major or a program. The University may judge technical skills as of the date the student has to demonstrate them, because the University judges all applicants in that way. The University must consider the pregnant applicant on related factors such as whether she can maintain a calm and reassuring demeanor, or lift a patient as part of a two-person team, if that is what successful applicants to an Emergency Care lab class must present.

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- The University offers admission and registration to all students who meet the pre-requisites for the class. If a pregnant student's physician did not limit use of smelly but non-toxic materials, or limit her lifting, and she meets the academic pre-requisites, the University takes no action. She can sculpt with smelly materials and move her 15-lb sculpture to a display stand as needed. She can continue in Sculpture class without regard to stereotypes.
- The University provides a seat for all students registered for a class. The classroom may have seating with the desk fixed a certain distance from the chair back. Pregnant students assigned to that classroom may require a chair and table when they cannot access that type of seating.

The building manager should arrange usable seating upon request, just as the University would for a non-pregnant student who could not access that type of seating.

- A lab section requires students to touch certain substances with gloved hands or handle certain substances while masked. A pregnant student's physician may prohibit her from such exposure, even with precautions. If manipulating the substances is a part of the lab, the University should work to find an alternate way for the pregnant student to demonstrate knowledge of the lab science. It might be that the student records her description of an entire lab procedure while someone else manipulates the substances at her specific direction from an adjacent room, using a web-chat over laptops. Alternatively, the instructor might count the final double (after delivery) and exempt the student from the midterm lab procedure. The pregnant student would arrange such strategies in advance, backed by physician documentation when needed, and the actions would be a comparison to actions the University takes for non-pregnant students.
- Pregnant student-athletes are subject to the same policies as student-athletes with any other health status: there may be no restrictions, some restrictions, or complete restriction on the ability to practice and play. If the physician says she can practice and play, she can practice and play. If not, she cannot. Medical clearance does not guarantee the pregnant student-athlete a position in the starting lineup no matter where she played before pregnancy; such decisions are up to the coaches, for every student-athlete.

IV. Policy Resources

This section captures University of Central Florida's regulations, policies, practices, and campus resources for students, faculty, coaches, and administrators involved when a student reports sexual violence that interferes with participation in university educational programs. The University intends for each resource to contribute to a non-discriminatory campus environment that includes prompt and effective corrective action of any unlawful situations, including reports of sexual violence.

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A. Regulations and Policies

1. **Title IX regulations:** 34 C.F.R. Sections 106.31 (a) and (b), Non-discrimination on the basis of sex in education programs or activities receiving federal financial assistance:
<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=b1c4bfe5a71fc0bcb154ed2e95f01a09&rgn=div5&view=text&node=34:1.2.1.1.5&idno=34>
2. **UCF Regulation 3.001**, Non-Discrimination; Affirmative Action:
<http://www.oie.ucf.edu/documents/NonDiscriminationAffirmativeAction.pdf>
3. **Golden Rule Student Handbook:** <http://goldenrule.sdes.ucf.edu/>. See especially section 5.006 (1)(i) regarding decisions on student conduct.
4. **“Unless There’s Consent”** – sexual assault prevention program required of all new students. This is an online program through Student Development and Enrollment Services. Completion is required before attending the first UCF class. Students must achieve a score of at least 80% to pass, and they have three attempts.
5. Training program: “UCF’s Steps to Prevent Discrimination, including harassment, 2012-13.” This program is available face-to-face at least twice a year; online registration follows campus-wide email announcements.

Participants may register at any time through [UCF Webcourses](#) for an online training experience covering the same information. Since the system requires a unique University ID, the system then records successful completion on an employee’s Learning Record within PeopleSoft. There are three sections of information, each followed by an interactive quiz. Participants must achieve a score of 80% to access the next section.

For additional questions and resources for filing a report, complaint, or discrimination grievance, utilize the following contact information:

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