

Sexual Harassment

New England College's Title IX Officer is Paula Amato.

Sexual harassment is a form of sex discrimination, which is illegal under Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. The law and New England policy prohibit all forms of sexual harassment: men harassing women, women harassing men, men harassing men, and women harassing women.

Sexual harassment includes unwanted or unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made a term or condition, either explicitly or implicitly, of an individual's employment or educational experience;
2. Submission to or rejection of that conduct or communication by an individual is used as the basis for decisions affecting that individual's employment or educational performance;
3. That conduct or communication has the purpose or effect of unreasonably interfering with an individual's work, academic performance, or participation in co-curricular activities;
4. That conduct or communication has the purpose or effect of creating an intimidating, hostile, or offensive working, learning, social, or residential environment; or
5. The conduct or communication implies a discriminatory hostility toward an individual because of her or his sex.

Although Title IX does not prohibit discrimination on the basis of sexual orientation, sexual harassment directed at gay or lesbian students that are sufficiently serious to limit or deny a student's ability to participate or benefit from the school's program constitutes sexual harassment prohibited by Title IX under the circumstances described.

Sexual harassment laws are designed to 1) protect people with less power (employees, subordinates, interns, students) from those with more power (employers, supervisors, managers, teachers), and 2) prevent the creation of a "hostile environment" that might result from unwanted sexual comments and advances, even among peers.

Positions of Power

Although all college students are, as students—peers, there are recognized positions of power among students, such as resident assistants, athletic team captains, student government officers, class officers, and honor students. Just as important, there are informal differences in power and influence between students. Sometimes being part of a certain social group or one's year in college will result in social power differences between students. All members of the New England College community should bear in mind that positions of power and status among student peers—formalized or not—are opportunities to demonstrate good citizenship, and should never become the basis for abuse or harassment. Such behavior is against the New England College Code of Student Conduct.

Hostile Environment

The New England College Code of Student Conduct prohibits creation of a hostile living or learning environment. This can occur between students with no discernible difference in status or power. The New England College community is grounded in mutual respect and goodwill, and each is responsible for recognizing when she or he may present an intimidating or unwelcome presence, or when she or he may be contributing to a hostile environment for another community member.

Examples of Sexual Harassment may include but are not limited to the following:

- Sexual innuendoes, comments or bantering;
- Comments about an individual's body, clothing, or lifestyle which have sexual implications;
- Repeated questions, derogatory statements and/or jokes that are related to gender and/or sexual orientation or identity;
- Sexually degrading words or gestures used to describe an individual;
- Subtle or blatant pressure for sexual activities;
- Unwanted touching, patting, pinching, or brushing against a person's body or clothing;
- Leering or ogling or other non-verbal "comments" about an individual's appearance;
- Making sexually suggestive gestures or sexual sounds;
- Sending sexual mail, notes, e-mail, or making sexually explicit phone calls or voice mails;
- Sending, giving, showing or displaying material (objects, pictures, cartoons, articles, books or magazines) that are sexually explicit; or
- Direct or indirect threats or bribes for sexual favors.

Where and How Sexual Harassment Could Occur

Sexual harassment could occur on campus or at off-campus New England College sponsored events. It could occur in the classroom (student to student, faculty to student, student to faculty), the work setting (supervisor to employee, employee to supervisor, employee to employee), and the living and social environment. It could occur at an internship or practicum site on or off-campus.

In addition, an employee or student could experience sexual harassment from a salesperson, vendor, parent of a student, alumnus, visitor, or any other members of the extended college community or visitors who have contact with New England College faculty, staff, and students at the college or college sponsored events. Sexual harassment could occur to a third party when that person is negatively affected by unwelcome or welcome sexual conduct between other individuals in that third party's work setting or classroom—or any other setting that requires a New England College employee or student be present for work or learning purposes or, in the case of students, in that person's living environment.

The college considers any romantic, physical, or sexual relationship between employees of the college and students to be a conflict of interest and potentially sexual harassment due to the potential for abuse of power, harassment, bias, and favoritism. Dating relationships between supervisors and subordinates and between faculty or staff and students are generally deemed unwise and should be avoided.

Civil Rights Complaints or Harassment

New England College is committed to maintaining a humane atmosphere in which the sex, race, color, creed, religion, sexual orientation, sexual identity, marital status, national or ethnic origin, physical or mental handicap or veteran status of an individual or group are respected and not disparaged. Therefore, the following procedures will be followed should any member of our joint community feel that such an atmosphere is not being maintained.

Acts of Intolerance

New England College is committed to maintaining an environment which fosters respect among the various representative cultures on campus, and acts of intolerance create an offensive, demeaning, intimidating, and hostile environment. Therefore, any behavior — verbal or physical — that stigmatizes or victimizes individuals or creates a hostile environment for individuals is a violation.

Such behavior includes, but is not limited to:

1. Objectionable epithets which are directed to an individual or group and inflammatory;
2. Demeaning depiction or treatment;
3. Threatened abuse or actual harm, whether it be physical or verbal; or
4. Any behavior that creates an offensive, intimidating, hostile or demeaning environment for an individual or group of individuals.

Instances of the aforementioned behavior should be reported and will be investigated and may be addressed by the conduct system or via an employment action. Community members are encouraged to report this type of incident whether as the victim or as an observer. The college urges reflection on the impact of such incidents on an individual, on the group that individual may represent, and on the community as a whole.

Resident students are free to express themselves by decorating the outside of their doors as well as inside their rooms. Decorations that are part of common and public areas must follow the guidelines prescribed for preventing a hostile environment. Decorations that stigmatize or victimize individuals or create a hostile environment for individuals are a violation of our Code of Student Conduct. Such content includes, but is not limited to:

1. Objectionable epithets which are directed towards an individual or group and inflammatory;
2. Demeaning depiction or treatment;
3. Threatened abuse or actual harm; or
4. Any decorations or displays that create an offensive, intimidating, hostile, or demeaning environment for an individual or group of individuals.

How Do You Know?

How do you know when something you say or do may be an act of harassment? The first sign is that someone is feeling intimidated or offended. "But" (you reply), "sometimes I'm just joking, and the person I'm joking with takes it wrong!" While this may be true, you should remember two things. First, the person who is offended sets the initial standard for harassment. In other words, if someone is feeling harassed—that's enough to begin an investigation.

Second, according to the New England College Code of Student Conduct, everyone is responsible for being attentive to and respectful of the feelings of others. It's very possible to offend someone without meaning to offend. If something you said or did appears to have offended or intimidated someone, you should check with that person, and try to clarify any misunderstanding. If you are asked to change some behavior because it is harassing, for instance, to stop making a certain kind of joke, alter something displayed, or change the message on your voicemail, you should be willing to discuss the matter. Very often, a good resolution to the problem can be found through open and respectful discussion. If the action in question is a sexual advance, in the form of talk or touching, you should remember that "No" means No, and that verbal refusal, reluctant silence, uncertain hesitation, ambiguous response, or any such non-verbal cues from the other person mean that no more sexual talk or touching should occur until the uncertainty is specifically dispelled. How do you know if you are being harassed? As you'd expect, the first sign is that you feel offended or intimidated. If so, you should ask yourself a few questions: "Am I feeling belittled or threatened?", "Have I asked this person to stop doing this before?", "Am I starting to avoid this person, and do I dread seeing him/her?" If the answer to any of these is "yes," then you should consider taking some action. Options for action are in the next section.

Disclosure, Investigation, and Complaint Procedures

Employees and students should address harassment in order for everyone to enjoy a work and learning environment free from offensive and hostile behavior. Employees and students are strongly encouraged to seek information about campus resources available to them in cases of harassment and to disclose cases of harassment so that situations can be addressed. Any member of the college community, who believes he or she has been harassed, or has witnessed harassment at the college, is encouraged to disclose the conduct to a support person. If the person feeling harassed is a student, a support person may include, but is not limited to, an academic advisor, resident director, campus safety member, and/or counselor. If the person feeling harassed is an employee of the college, he or she may want to disclose information to the department chair, academic vice president and dean of faculty, and/or director of human resources.

Prohibition Against Retaliation

Students and employees who, in good faith, report what they believe to be harassment or who cooperate with any investigation shall not be subjected to retaliation. Any student or employee who believes he or she has been the victim of retaliation for reporting harassment or cooperating in an investigation should immediately contact campus safety or human resources. Any person found to have retaliated against a person who has cooperated in an investigation will be in violation of this policy and will be subject to disciplinary action. The remainder of the information in this section concerns student avenues for resolution. Information regarding employee complaint procedures can be found in the Employee Handbook or by contacting human resources.

Informal Action

Informal action can be pursued before or instead of a formal complaint process. When a person feels he or she has been harassed, an important first step is to convey to the perpetrator that his or her behavior is offensive.

Notification can be verbal or written and delivered immediately or within a reasonable time frame.

Other informal actions could also include:

1. Keeping a log of times, dates, places, witnesses, the nature of the harassment, what the accused said and did, how the complainant responded
2. Writing a letter to the harasser that includes:
 - a. the writer's factual account of what happened, but without any subjective evaluation of such (this account should be as detailed as possible, including dates, places, and descriptions of the incidents);
 - b. a description of how those events made or still make the writer feel, e.g., disgusted, afraid, uneasy, confused, disappointed, etc.; and
 - c. what the writer wants to happen next and in the future.

To be most effective, the letter should be delivered only to the accused, in person, or by registered or certified mail.

The writer should keep a copy of the letter. If the letter does not achieve its purpose, the letter can be used to support further complaints.

Formal Action

At any point an individual may feel that informal action is ineffective or has not produced the desired effect — to make the individual cease the harassing behavior. While the college hopes that informal action will be successful, any student who believes that he or she has been harassed by a member of the college community can seek to find

resolution through formal action. Students who wish to file a formal complaint should meet with the associate dean of students and director of citizenship education, the director of campus safety, or another New England College faculty or staff member and submit a written statement describing the incident(s). Once harassment is disclosed to college personnel, the college is legally obligated to address and respond to the complaint. If the alleged harasser is a faculty member, formal action should be pursued through the academic vice president and dean of faculty. If the alleged harasser is a staff person, formal action should be pursued through the Office of Human Resources. If the alleged harasser is a student, formal action should be pursued through the Student Development Office.

Investigation

Upon receipt of a claim alleging harassment, the college will investigate promptly the charges made by the complainant. However, it may be determined that due to the length of time between the alleged incident and the time of reporting, there is not enough information available to successfully adjudicate a claim of harassment. Except as required by the demands of the investigation and enforcement of the policy, the complainant's claim will be treated as private by the college. If the safety and/or well-being of the complainant or the accused is in question, persons accused of harassment may be banned from certain residence halls or buildings, academic areas, or suspended from the college pending the hearing. Any attempt by a person to intimidate, harass, or punish an individual who is bringing a complaint or involved in the hearing process, will result in disciplinary action.

Determination

Should an investigation produce enough information to substantiate an allegation of harassment, the case will then be referred to a hearing body appointed by the Dean/Associate Dean of Students, or designee. Administrative hearings provide each party with an opportunity to present information regarding the incident. The hearing body, once it has heard all sides and questioned parties, including relevant witnesses, will make a determination of responsibility or non-responsibility based on the preponderance of evidence. The hearing body will notify the respondent, and the complainant of the outcome of the hearing.

Sanction

Should a student be found responsible for harassment, sanctions could range from admonition to permanent dismissal. For more information regarding the conduct process, please contact the Student Development Office.

Sexual Misconduct/Sexual Assault

Intentional physical contact of a sexual nature with the body of another should not occur without the unequivocal consent of that individual. Sexual misconduct/ sexual assault of any person committed by a New England College student, on college property, at college sponsored activities, or off campus, will not be tolerated. Sexual misconduct/ sexual assault is the intentional touching of a victim's sexual or intimate parts, or the clothing covering the immediate area of those parts, sexual penetration of the victim's genital or other body openings, by any part of the accused's body, or by an object manipulated by the accused, without the victim's consent through the use of force, threat of force, coercion, or intimidation, or under circumstances where the victim is mentally incapacitated for any reason including intoxication. In the event of any indication that the contact or conduct is unwelcome, it should cease or not be attempted. "No" means "no"; "maybe" means "no"; silence means "no"; hesitation means "no"; and a "yes" that is followed by a change of mind also means "no". If there is any doubt, the answer should be understood to be no, and sexual activity should cease. This policy applies regardless of the sexual orientation of the individuals involved.

Unequivocal Consent

At New England College, a person who is accused of sexual misconduct or sexual assault must show he or she had evidence of unequivocal consent given by the person who complains of inappropriate sexual conduct or contact. The hearing body may find for the complainant instead of the respondent unless there is evidence of unequivocal consent by one who is capable of offering it. If someone is incapable of offering [or recognizing] consent, due to alcohol or drug impairment, underage status, or other limitation, then sexual activity should cease. Likewise if someone is incapable of recognizing whether consent has or has not been given, then sexual activity should cease.

Rights of Student Victims of Sexual Assault or Rape

1. The right to immediate medical care, free counseling services, and availability of a victim advocate;
2. The right to request an interim separation order from the Office of Student Development pending a hearing;
3. The right to change residence or have the accused change residence;

4. The right to have a person of their choice (a victim advocate) to accompany them throughout the disciplinary hearing;
 5. The right to academic support;
 6. The right to remain present during the entire hearing;
 7. The right not to have their irrelevant past sexual history considered during the hearing;
 8. The right to be informed of the outcome of the hearing;
 9. The right to appeal the decision of the board/hearing officer;
 10. The right to have a victim advocate speak for the victim in a hearing if the victim's presence would cause unnecessary psychological stress or otherwise endanger the victim in the opinion of the judicial advisor;
 11. The right to file a complaint with local law enforcement.
- The college recognizes that normal procedures of witness confrontation are usually preferable for the promotion of due process but that victims of sexual assault and rape may require these additional protections.

Reporting Options

The following options exist for a person who thinks he or she has been a victim of sexual misconduct or sexual assault:

1. To pursue the case through the judicial system of the State of New Hampshire, but not through the college conduct system;
2. To pursue the case through the college conduct system, but not through the state judicial system;
3. To pursue the case via both the state and college processes; and
4. Not to pursue the case via either the state or college process.

If you request confidentiality or ask that the complaint not be pursued, the college will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If you insist that your name or other identifiable information not be disclosed to the alleged perpetrator, know that it limits the college's ability to respond. Also note that the safety of the campus outweighs student's right to confidentiality. Additionally, a student can request a change in his or her housing and class assignments, depending on individual availability and requirements.

Investigation

Once a student chooses to pursue the case through the college conduct system, the college will investigate promptly the charges made by the complainant. Except as required by the demands of the investigation and enforcement of the policy, the complainant's claim will be treated as private by the college. If the safety and/or well-being of the complainant or the accused are in question, persons accused of sexual misconduct or sexual assault may be banned from certain residence halls or buildings, or suspended from the college pending the hearing. Any attempt by a person to intimidate, harass, or punish an individual who is bringing a complaint or who is involved in the hearing process, will result in disciplinary action, if proven.

Right of Complaint

Students who believe that the College is not complying with the requirements of Title IX of the Educational Amendment of 1972 or the regulations issued by the Department of Education implementing that Act, may file complaints in writing with:

New England College's Title IX Officer
Paula A. Amato, CMA
Vice President of Finance and Administration
New England College
98 Bridge Street
Henniker, NH 03242
Phone: 603-428-2461
Email: pamato@nec.edu

The Office for Civil Rights,
Boston Office
U.S. Department of Education
J. W. McCormack POCH, Room 701
Boston, MA 02109-4557
Telephone: (617) 223-9662

Facsimile: (617) 223-9669
TDD: (617) 223-4097
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