

Federal and State Laws: Sexual Assault

Federal Law

Sexual Assault

Under Title IX, sexual assault includes:

- *Rape*—sexual intercourse, or anal or oral sex (with even slight penetration by a body part or an object) without consent
- *Fondling*—touching another person's private body parts for sexual gratification without consent
- *Statutory Rape*—sexual intercourse with a person who is under the age of consent
- *Incest*—sexual intercourse between two people who are related to a degree prohibiting marriage

Statutes

Federal Law

Sexual Assault

Code of Federal Regulations

TITLE 34—EDUCATION

SUBTITLE B—REGULATIONS OF THE OFFICES OF THE DEPARTMENT OF EDUCATION

CHAPTER I—OFFICE FOR CIVIL RIGHTS, DEPARTMENT OF EDUCATION

PART 106—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS

OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

SUBPART D—DISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES PROHIBITED

§ 106.30 Definitions. *[Effective Aug. 14, 2020.]*

(a) As used in this part:

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
- (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

.... [Content omitted for clarity.]

§ 106.44 Recipient's response to sexual harassment. [Effective Aug. 14, 2020.]

(a) General response to sexual harassment. A recipient with actual knowledge of sexual harassment in an education program or activity of the recipient against a person in the United States, must respond promptly in a manner that is not deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. For the purposes of this section, §§ 106.30, and 106.45, "education program or activity" includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution. ... [content omitted for clarity]

.... [Content omitted for clarity.]

Title 20-EDUCATION

CHAPTER 28—HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE

SUBCHAPTER IV—STUDENT ASSISTANCE

Part G—General Provisions Relating to Student Assistance Programs

§ 1092. Institutional and financial assistance information for students

.... [Content omitted for clarity.]

(f) Disclosure of campus security policy and campus crime statistics

(6)(A) In this subsection:

(v) The term "sexual assault" means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

.... [Content omitted for clarity.]

Crime Definitions From the Summary Reporting System (SRS) User Manual From the FBI's Uniform Crime Reporting (UCR) Program

Rape

The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Crime Definitions From the National Incident-Based Reporting System (NIBRS) User Manual from the FBI's UCR Program

Sex Offenses

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

A. Fondling — The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

B. Incest — Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

C. Statutory Rape — Sexual intercourse with a person who is under the statutory age of consent.