



Sexual Assault and Sexual
Harassment Prevention Efforts,
reporting requirements, and related
resources.



COLORADO MESA
UNIVERSITY

**It's Up to You:
Stopping Sexual Harassment
and Sexual Violence**

Commitment

Legal problems surrounding sexual harassment are greatly reduced when we

***commit to behavioral changes
toward increased professionalism
and respect.***



Objectives of this training segment

1. Recognize that federal law protects employees (Title VII) and students (Title IX) from sexual harassment.
2. Learn how to identify sexual harassment so that you are able to recognize it, report it, and prevent it.
3. Understand conduct expectations and reporting responsibilities as a CMU employee.

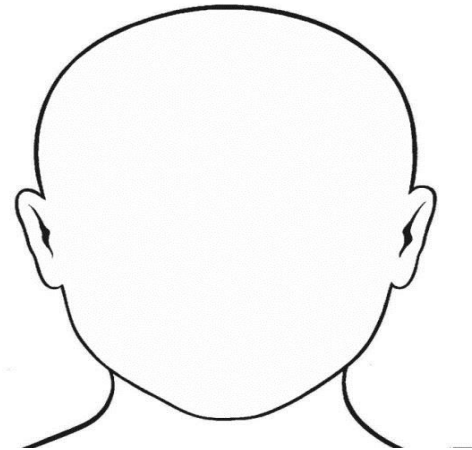
We must build a New World, a far better one in which the eternal dignity of humankind is respected.

President Harry S. Truman

Understanding Harassment Laws

EVERYONE IS PROTECTED

- Women
- Men
- Straight
- Gay
- Transgender
- Supervisors
- Employees
- Faculty
- Students



Understanding Harassment Laws

- The victim does not have to be of the opposite sex.
- The victim need not be the person harassed, but can be anyone affected by the conduct.
- The harasser may be a supervisor, co-worker, student, teacher, vendor, contractor, other non-employee/outsider.

Understanding Harassment Laws

FEDERAL LAW

Unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature constitute sexual harassment when:

- Such conduct is made either explicitly or implicitly a term or condition of employment (or academic performance), or
- Submission to or rejection of such conduct is used as the basis for decisions affecting such individual, or
- Such conduct has the purpose or effect of interfering with an individual's work/academic performance or creating an intimidating , hostile, or offensive work/academic environment

Understanding Harassment Laws

Quid Pro Quo

Submission to the conduct is made a term or condition, either explicitly or implicitly, of obtaining education or employment;
OR

Submission or rejection of the conduct is used as a factor in decisions affecting that person's education or employment;
OR

(In other words):

Harasser requires sexual favors of victim for some action by harasser, or harasser retaliates against victim for refusing sexual favors.



Understanding Harassment Laws

Hostile Environment

- Victim is subjected to unwelcome repeated and/or severe sexual comments, innuendos, or touching, which alter conditions or interfere with school or employment performance or access to opportunities provided by university.
- Conduct is gender-based, and creates an intimidating or offensive place for employees to work or students to go to school.
- Can occur off campus grounds (e.g. school sporting event, internship program).
- Can be caused by professors, administrators, staff, students, vendors or persons temporarily on campus.

Hostile Work/Academic Environment

"There is no bright line between sexual harassment and merely unpleasant conduct...Accordingly, we view the 'totality of the circumstances in determining whether there is a hostile work environment."

Severity and Pervasiveness are pivotal.



The key to any harassment claim is that the alleged conduct was *unwelcome, uninvited, not wanted or not willingly permitted.*

A victim may voluntarily submit to conduct (intercourse, touching, hugs, jokes), because of a fear of loss of employment or failure in class, but the behavior may still be considered **unwelcome**.

What would a reasonable person think?

Reasonable Person

The standard, both objective and subjective, used to determine if conduct is sexual harassment

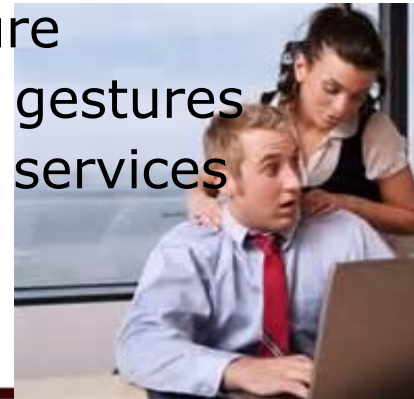


Sufficiently severe or pervasive conduct is sexual harassment if a *reasonable* person with the *victim's perspective* would consider it so.

Perspective matters! In cases involving male v. female harassment, courts have adopted a "reasonable woman" standard to show that the *victim's objective perspective* must be considered, and to distinguish between a man's view of conduct and a woman's.

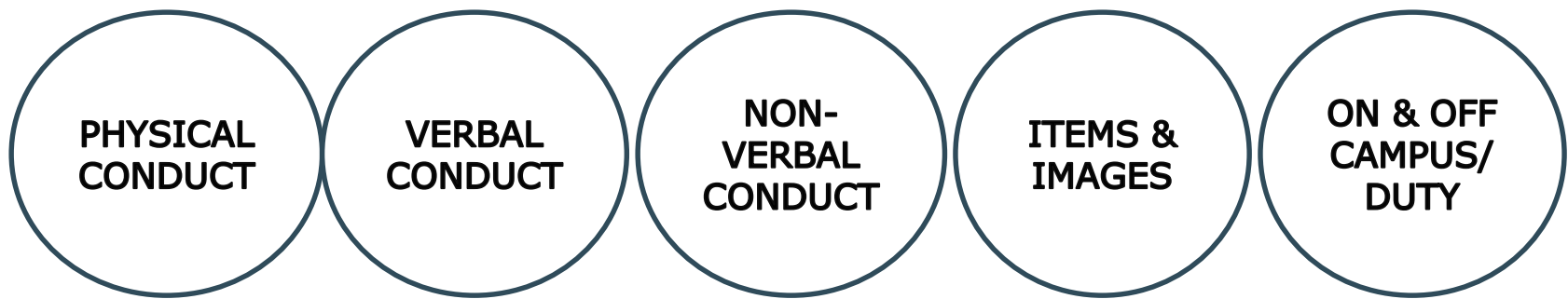
Unwanted behaviors that may constitute harassment

- Leering
- Wolf whistles
- Discussion of partner's sexual inadequacies
- Sexual innuendo
- Comments about women's/men's bodies
- 'Accidentally' brushing sexual parts of body
- Lewd electronic communications
- Tales of sexual exploitation
- Inappropriate invitations
- Sexist jokes and cartoons
- Public humiliation
- Displaying pornography
- Gender-based on sex or sex-stereotyping
- Inappropriate gifts
- Animal noises
- Unwelcome touching, hugging, shoulder rubs
- Pressing or rubbing up against another
- Pressure for dates
- Leaning over, invading space
- Indecent exposure
- Sexually explicit gestures
- Soliciting sexual services
- Stalking
- Sexual assault



Understanding Harassment Laws

Harassing Conduct may arise from:



Two types of Harassment

Quid Pro Quo
(Strictly Illegal)

Hostile Work Environment



Responding to Sexual Harassment

Responding to Harassment

The University prohibits discrimination in employment-related and student-related decisions...Harassment based on protected status is a form of discrimination and is also prohibited.... Any employee or student who engages in prohibited discrimination, harassment, or violence may be disciplined, discharged, or expelled.

The University shall include in its policies for employees and students a policy prohibiting such conduct, and setting forth a method for reporting the prohibited conduct. The policies shall also provide for the investigation of complaints and corrective action.

[Trustees' Policy Manual, Section 3.4](#)

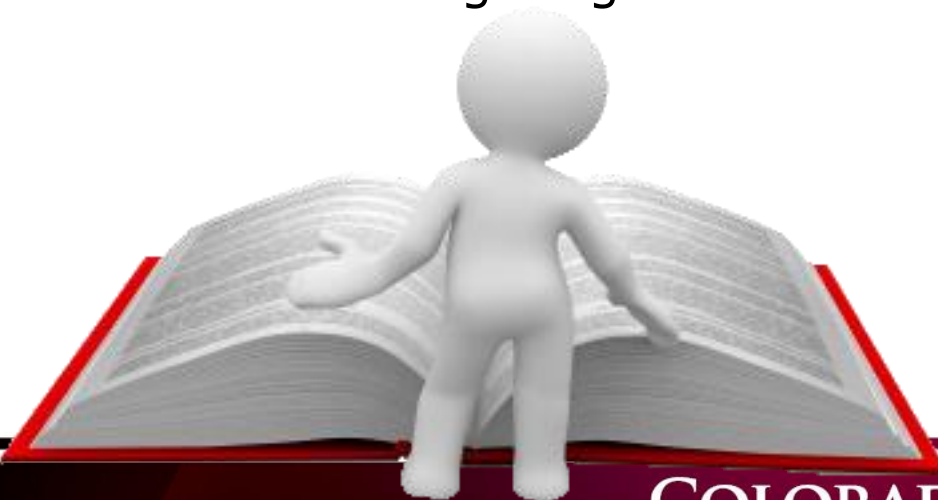
Policies

Professional Personnel Employment Handbook Section II

- A. Discrimination and Harassment Prohibited
- B. Duty to Report (§ II.B)
- C. Retaliation Prohibited
- D. Discipline or Discharge
- E. Legal Rights
- F. Procedures for reporting and investigating

Provides definitions and examples and gives directives, including

1. a prohibition on amorous or sexual relationships between professionals and students enrolled in their class or whom they advise, or between professionals and employees or students whom they supervise;
2. outlines duty to report; and
3. Prohibits retaliation



Policies

The Maverick Guide

CMU is committed to providing a living environment in which students can live, work, and study free from sexual harassment, sexual intimidation, sexual exploitation, domestic violence, dating violence, and stalking.

- Definitions
- Circumstances in which harassment occurs
- Reporting information



TITLE

IX

Sexual Misconduct

Title IX

Title IX and its implementing regulations prohibit sex discrimination, regardless of the complainant's sex, gender identity, or sexual orientation. The law prohibits sexual misconduct, any wrongful conduct of a sexual nature, including sexual harassment and sexual violence.

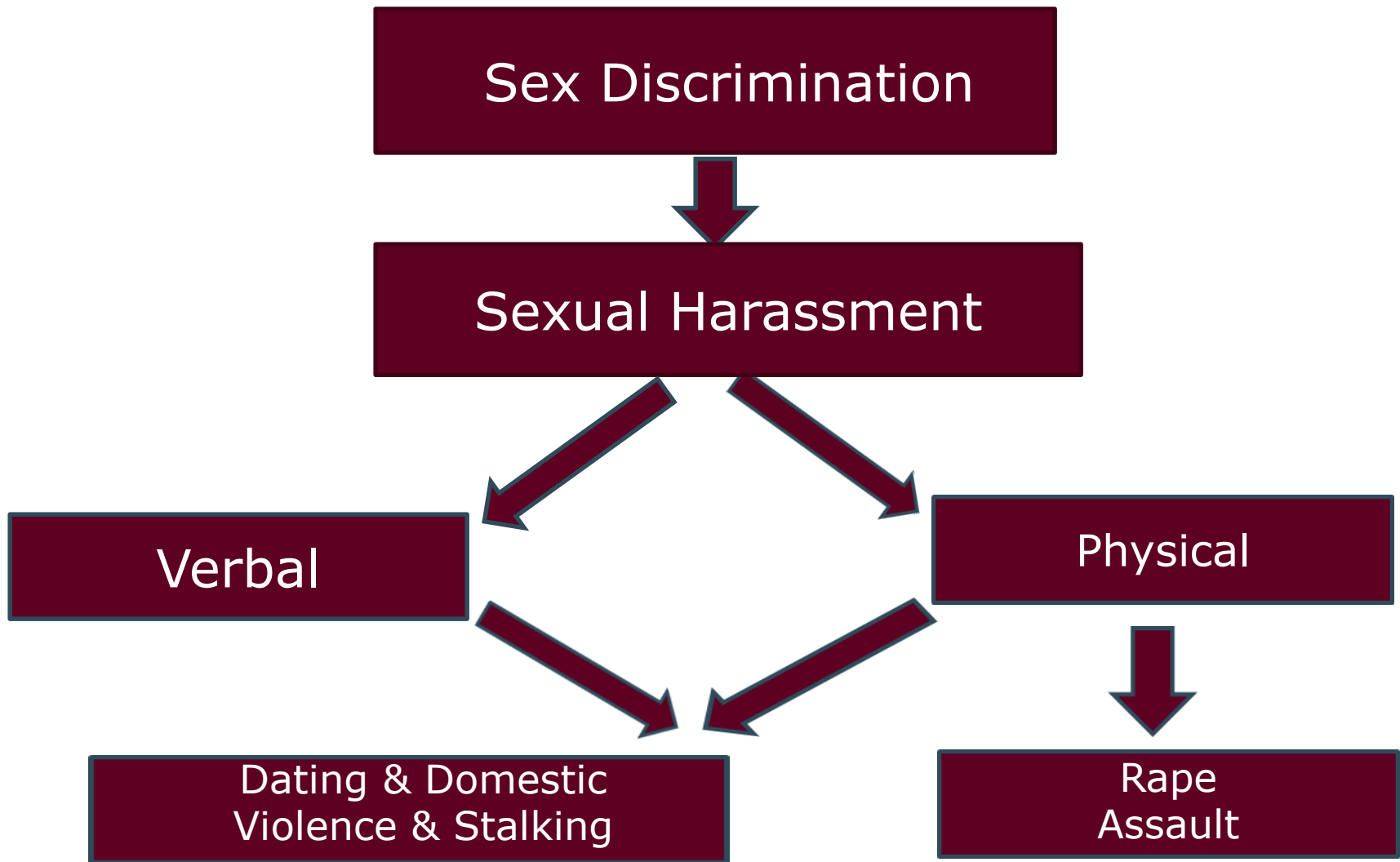
“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...”

When does sexual misconduct violate Title IX?

Title IX

- Sexual misconduct violates Title IX when it rises to a level that denies or limits someone's ability to participate in or benefit from academic, educational, extracurricular, athletic, or other school programs.
- When sexual misconduct occurs and the university knew or should have known about it, the university and its employees **must** respond.

Prohibited by Title IX



Title IX – Response Obligation

- Promptly investigate and resolve complaints
- Take reasonable steps to stop sexual misconduct
- Strive to prevent it from happening again
- Support the recovery of victims
- Prevent retaliation

Title IX

It doesn't matter where sexual misconduct happens!

We are required to respond to incident that:

- takes place on campus, or
- is connected to university programs, or
- is perpetrated by a student, employee, authorized volunteer or contractor of the school.

Our obligation to respond is the same whether the misconduct occurs on-campus, off-campus, downtown, online, or abroad.

Title IX – Sexual Violence

- Sexual violence is sexual misconduct involving **non-consensual** sexual interaction
- Extreme form of sexual harassment
- Unlawful sexual contact
- Sexual assault
- Sexual intrusion
- Sexual penetration

See [CRS 18-3-401](#)

Title IX

Consent

In order to identify sexual violence, we must understand the difference between consensual and non-consensual sexual activities.

"Consent" to sexual contact means someone knows the nature of the act and voluntarily cooperates. The conduct is welcome.

"Consent" means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act. A current or previous relationship shall not be sufficient to constitute consent. Submission under the influence of fear shall not constitute consent. C.R.S. 18-3-401 (1.5)

Consent is *not* given

- when someone is "physically helpless" - asleep, unconscious, or otherwise unable to indicate willingness to engage in sexual activity;
- when someone, who, by reason of immaturity, mental disease or mental defect, or intoxication, is manifestly unable and is known, or reasonably should be known, to be unable to make a reasonable judgment as to the nature of the conduct; or
- when someone is induced by force, duress, or deception.

See also [CRS 18-1-505. Consent](#).

Title IX – Report

Who MUST Report?

All “responsible employees” are required to report information of possible sexual misconduct to school officials. This includes those:

- with any supervisory duties (including student employee, with supervisory obligations over other students)
- whose positions may lead a student to reasonably believe that they have authority to address and remedy sexual misconduct
- with authority to address and remedy sexual misconduct



Where to report

- Report any information or complaints received regarding sexual misconduct. If the alleged perpetrator is a student, report to Vice President of Student Services.
- If the alleged perpetrator is an employee, report to the Affirmative Action Coordinator/Director of Human Resources.
- Confidential Reporting Option, S.A.R.T. 970-270-5895


Reporter's Checklist

- ☐ Names of complainant, accused, and witness
- ☐ date, time, and location of alleged incident
- ☐ any details shared by complainant
- ☐ whether complainant requested confidentiality
- ☐ whether complainant requested no action be taken
- ☐ any other relevant facts

Even if you believe the reported behavior may not meet the definition of illegal sexual harassment, reporting the information provides an opportunity for early intervention to educate and protect students.

Even if complainant requests confidentiality or expresses a desire that you not tell, you must report in order for university to respond.

Title IX - Process

-  Under Title IX, after receiving a report of sexual misconduct, the university must investigate promptly to determine what occurred and take appropriate steps to resolve the situation.
- If it involves criminal conduct, law enforcement may become involved. Any criminal investigation is separate from the school's investigation.



Take Prompt Action

- ✓ Stop the problem. **See something, say something.**
- ✓ Express disapproval.
- ✓ Don't ignore the problem. Even if a victim prefers you do nothing, once you are aware, you must address it.
- ✓ In extreme circumstances when a problem threatens workplace safety or creates an emergency, call police first. **9-1-1**

Things to Remember

Sexual Misconduct affects everyone.

Sexual misconduct, especially sexual assault is a serious concern on university campuses.

Sex Requires Consent

Sexual activity without consent is a form of assault, and we must address and remedy when it occurs.

Title IX Requires Reporting

Follow our policies to report known or suspected sexual misconduct.

You Have Help

If you have any questions about how to proceed, contact the Director of Human Resources or Vice President of Student Services.

Resources and Phone Numbers

Professional Personnel Employment Handbook

The Maverick Guide

"Dear Colleague" Letter

(issued by U.S. Dept. of Education,
Office for Civil Rights as guidance on
Title IX)

Sexual Harassment – It's NOT Academic

(U.S. Dept. of Education pamphlet on
sexual harassment in academic
setting – definitions, examples,
process)

Vice President of Student Services

970.248.1366

Director of Human Resources

970.248.1266

Sexual Assault Response Team (SART) Hotline

970.270.5895

Grand Junction Police

Emergency: 9-1-1

Non-emergency:
970.242.6707



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Sexual Assault Prevention

Officer Suzette Freidenberger

Criminal Definition of Sexual Assault

Any actor who knowingly inflicts sexual intrusion or penetration on a victim commits sexual assault if:

- The actor causes submission of the victim by means of sufficient consequence reasonably calculated to cause submission against the victim's will
- The actor knows that the victim is incapable of appraising the nature of the victim's conduct
- The victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented

What is Consent?

According to the Colorado Revised Statutes

Consent means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act.

When is a person NOT capable of giving valid consent?

- Mentally incapacitated (drugs or alcohol)
- Physically incapacitated (drugs or alcohol)
- He or she is asleep or passed out
- Silence does **NOT** mean consent
- Giving into pressure or intimidation is **NOT** consent.

What is the Process?

- Crime is reported to GJPD (by victim, SART or Third Party)
- Officer contacts victim and takes statement
- LE may request SANE for victim
- Assist victim in obtaining resources
- May or may not attempt to contact the suspect, if known
- May or may not turn case over to Investigations

Time Frames

- Statute of Limitations on Felony Sexual Offenses is 3 years (unless there is DNA)
- Average time frame for an investigation of a Sexual Assault varies case by case
- Amount of time to process DNA Evidence is approximately 5 months (varies)
- Average time frame before going to trial on a case where a suspect is arrested and charged is 8-12 months and sometimes longer.

Not all Cases are Prosecutable

- Allegations determined to be “Unfounded”
- Victim refuses to cooperate with investigation
- No physical evidence
- He said/she said type of situation (conflicting statements with no witnesses and no evidence)
- Victim does not disclose all information

Interesting Facts (Nationally):

Average age of a female victim: **16-24** years old

Average age of a male victim: **17** years old

Average age of a sexual assailant: **15-23** years old

Women between the ages of **16-19** years old are **4** times more likely to be a victim of sexual assault than any other age group.

College women who experience an assault are most likely to be assaulted during the first 6 weeks on campus (reelinsight.org).

What about local Statistics?

2014

Grand Junction Police Department
67 cases of reported sexual assault

- 8 cases involved CMU students as victims and/or suspects



Victim Age Breakdowns:

<u>Age</u>	<u>Cases Reported</u>	<u>CMU Student Involved</u>
15-18	15 cases reported	1 victim was CMU student
19-22	15 cases reported	6 victims CMU students
23-26	8 cases reported	1 victim was CMU student

67 reported cases continued.....

Suspect Age Breakdown:

<u>Age</u>	<u>Cases Reported</u>	<u>CMU Student Involved</u>
15-18	7 cases	
19-22	15 cases	7 suspects CMU students
23-26	6 cases	
27-30	6 cases	1 suspect CMU student

Victim was known to the suspect in 52 of the 67 cases (77.6%) – this includes where suspect had just met the victim at a party or was known through the victim's friends.

What is the most common denominator in sexual assaults?



A recent report indicates that 90% of college acquaintance rapes occur when at least one of the parties is under the influence of alcohol
(reelinsight.org)

Locally.....

Alcohol and Drug Use

67 cases total for 2014

- 19 cases – alcohol use only
- 11 cases – both alcohol and drug uses
- 5 cases – drug use only
- 32 cases – no drug or alcohol use



Drugs and/or alcohol use was involved in 22 cases where the victim was between the ages of 18-30 years.

What is the “Typical” Sexual Assault?



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Campus Response to Sexual Assault

Sexual Assault Prevention

Objectives of This Portion of Training:

- **Understanding the National Landscape**
- **Understanding what CMU is doing regarding Federal directives in law and policy**
- **Understanding “national” sexual assault statistics**
- **CMU Education and Prevention Efforts**
- **CMU Response and Aftercare Efforts**
- **Student Conduct Processes, Differences with Criminal Proceedings**
- **What to do if a student discloses an assault to you**

Sexual Assault Prevention

The National Context

- Title IX
- The “Dear Colleague” letter – April 2011
- Univ. of Montana settlement – May 2013
- Clery/Campus SaVE Act/VAWA – 2013-14
- OCR Guidance – April 2014
- White House “Not Alone” – April 2014



Sexual Assault Prevention

“Not Alone” Recommendations

1. **Identifying the Problem: Campus Climate Surveys**
 - CMU has performed two (2) surveys in the last three years and is working to collect more data this spring
2. **Preventing Sexual Assault – and Engaging Men**
 - Education and prevention efforts are underway
3. **Effectively Responding When a Student is Sexually Assaulted**
 - Launched a campus SART group three years ago; Helped launch/fund community SART coordination group; revamped investigation and support protocols
4. **Increased Transparency and Improving Enforcement**
 - Student Code of Conduct; Due Process; Close communication with LE

Sexual Assault In The News

Prevalence Rates?

- “1 in 4” (25%) – Fisher, Cullen, & Turner (2000).
- “1 in 5” (20%) – Krebs, C.P. Lindquist, C.H., Warner, T.D., Fisher, B.S., & Martin, S.L., (2007), repeated by the White House, Not Alone Report (2014).
- 6.1 in 1,000 (.061%) –DOJ/BJJS (NCVS)
- CMU rate approx. 7% - CMU Institutional Research Survey: 2012 & 2014

The Bottom Line: One assault is one too many!

Sexual Assault Prevention

Campus Values – Start at the top!



A Resolution Concerning Expectations Regarding Safety, Violence, Intimidation, Abuse and Discrimination at Colorado Mesa University

WHEREAS Colorado Mesa University values the free exchange of ideas among students, faculty, staff and members of the community on each of its campuses; AND

WHEREAS Colorado Mesa University embraces its role as the cultural hub of western Colorado, bringing together individuals from diverse backgrounds and interests to participate, foster, and promote a balanced exchange of civil dialogue; AND

WHEREAS Colorado Mesa University constantly strives to nurture a respectful, inclusive, physically and emotionally safe campus culture free of violence, physical or verbal abuse, intimidation or discrimination, regardless of age, race, ethnicity, religion, gender, or sexual orientation; AND

WHEREAS victims and witnesses of violence, intimidation, abuse and discrimination may be reluctant to seek assistance or report such instances for fear of retaliation or further discrimination:

Sexual Assault Prevention

Education & Prevention Efforts

- **University-initiated**
 - 1. Orientation Sessions**
 - 2. Stampede Weekend (Date Safe Project)**
 - 3. Grant programs (StAR)**
 - 4. Peer Education (PEPS)**
 - 5. Domestic Violence Prevention Academy**
- **Student-initiated**
 - 1. Sexual Assault Prevention Club**
 - 2. Take Back the Night**
 - 3. Beards Against Battery**
 - 4. Fear 2 Freedom**

Sexual Assault Prevention

- **Response & Reporting**
 - **Two tracks: (1) Criminal, and/or (2) University**
 - **24/7 CMU S.A.R.T. Hotline (Confidential and Non-confidential reporting and referral services)**
 - **Health Care (SANE exam, reproductive care, etc)**
 - **Law enforcement options**
 - **Mental Health (Trauma and ongoing counseling)**
 - **Academic Accommodations, Section Changes, Medical Appeals**
 - **Living Accommodations, Safe Walk, No Contact**

Sexual Assault Prevention

- **Response & Reporting**
 - Interim Measures (e.g., no contact)
 - Intake Meeting(s)
 - Both Respondent and Complainant are offered an advocate
 - Investigation and Recommendation by Title IX-trained Investigator
 - Conduct Process: 60 days unless extenuating circumstances
 - Campus Student Conduct Board Hearing
 - Reported, as appropriate, in Clery Data

Sexual Assault Prevention

What do I do if a student tells me they have been assaulted?

1. Report it. This can be done in a number of ways:

SART Hotline

Student Services (LHH/Albers)

GJPD

Student of Concern Report

2. **Support the student**

3. **Follow-up**

DON'T WORRY ALONE!

Resources

If you are concerned about a student, staff, or faculty member, *say something*, and report your concerns:

Emergency Situations: Call 911

Student Services Office: 970-248-1366

Human Resources Office: 970-248-1266

Student of Concern Reporting form:

<http://coloradomesa.edu/safety/report.html>

Safety@coloradomesa.edu

Conclusion

Thank you for coming!

Reminder:
Q&A Follow up session
Wednesday, 3/4/2015
1:30-2:30 p.m.

Location: UC West Ballroom