

Title IX: Policy Against Sexual Misconduct

At Fuller Theological Seminary we believe that men and women of God are suited for Christian service by moral character as well as by academic achievement and spiritual gifts. Among their qualifications should be compassion for individual persons, sensitivity to the needs of the communities of which they are a part, a commitment to justice, a burden that the whole of God's will be obeyed on earth, personal integrity, a desire for moral growth, and mutual accountability. Students and employees at Fuller Theological Seminary are expected to exhibit these moral characteristics.

The behavioral standards of Fuller Theological Seminary are guided by an understanding of Scripture and a commitment to its authority regarding all matters of Christian faith and living. The seminary community also desires to honor and respect the moral tradition of the churches who entrust students to us for education. These moral standards encompass every area of life, but prevailing confusion about specific areas leads the community to speak clearly about them. Students receiving training in a discipline for which there are professional ethical standards are subject to those as well. Enrollment in or employment by Fuller Theological Seminary includes a commitment by each individual to adhere to all of the seminary's published policies and ethical and behavioral standards. These Community Standards may be found at <http://www.fuller.edu/About/Mission-and-Values/Community-Standards/>.

As an educational institution, Fuller Theological Seminary also recognizes its legal obligations in regard to Title IX, the Campus Sexual Violence Elimination Act, and the Clery Act.

Applicable Federal Law

This policy of Fuller Theological Seminary ("Seminary") addresses the requirements of Title IX of the Education Amendments of 1972 ("Title IX"), a federal law prohibiting discrimination based on gender in federally-funded education programs and activities. Title IX states as follows:

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.

Programs and activities that may be included are admissions, recruitment, financial aid, academic programs, athletics, housing, and employment. Title IX also protects men and women from unlawful sexual harassment in school programs and activities. Under Title IX, discrimination on the basis of sex can include sex discrimination, sexual harassment, sexual assault, sexual violence, and sexual exploitation (as those terms are defined below). Title IX prohibits sex discrimination in both the educational and employment settings.

This policy also addresses the requirements of the Campus Sexual Violence Elimination Act, or Campus SaVE Act (SaVE), a 2013 amendment to the federal Jeanne Clery Act. The SaVE Act addresses sexual violence in the form of sexual assault, domestic violence, dating violence, and stalking. *For the purpose of this policy and the seminary's handling of such matters, "Title IX" includes the concerns of the Campus SaVE Act.*

Other forms of harassment and discrimination not of a sexual nature will be dealt with under other seminary policies including, but not limited to, Community Standard: Respect for People and Property; Community Standard: Policy Against Unlawful Discrimination; Policy Against All Forms of Unlawful Harassment in the Workplace; and Policy Against Retaliation.

Policy

Fuller Theological Seminary is committed to providing and modeling a learning, working, living, and community environment free of discrimination on the basis of sex, which includes all forms of sexual misconduct. Sexual misconduct includes sex discrimination, sexual harassment, sexual assault, and all forms of sexual violence. Sexual misconduct can be committed by men or women and it can occur between people of the same or different sex. The seminary considers sexual misconduct in any form to be a serious violation of the Christ-like conduct expected from all members of its community. This policy applies to any on-campus conduct and any off-campus conduct that affects the learning experience of students or working experience of employees or the campus climate. This policy applies to all seminary students, faculty, administrators, and staff, to other members of the seminary community, and to contractors, consultants, and vendors doing business or providing services to the seminary. Violation of the policy against sexual misconduct will result in disciplinary actions, which could include, but is not limited to, probationary status, academic suspension or expulsion, termination of residential lease, or employment suspension or termination. Seminary discipline is in addition to penalties that may be imposed by state or federal law, which could include imprisonment or financial fines.

Sexual Misconduct Definition

1. Sex Discrimination is

- a. Making a distinction in favor of, or against, a person on the basis of sex rather than on individual merit
- b. In an educational setting, making a distinction on the basis of sex that deprives a person of the ability to participate in or benefit from the seminary's education program or activities

2. Sexual Harassment is:

Unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct based on sex or of a sexual nature, up to and including sexual assault, constitute sexual harassment when one or more of the following apply¹:

1. submission to such conduct is made either explicitly or implicitly a term or condition of instruction, employment, or participation in other seminary activity;

¹ The harassing conduct based on sex or gender must also be sufficiently severe, pervasive or persistent, or objectively offensive to be considered sexual harassment.

2. submission to or rejection of such conduct by an individual is used as a basis for evaluation in making any academic or employment decision affecting that individual;
3. such conduct has the purpose or effect of unreasonably interfering with an individual's performance or participation in instructional, employment-related, or other seminary activity; or
4. such conduct has the purpose or effect of creating an intimidating, hostile, or offensive academic or work environment from the standpoint of a reasonable person of the same sex as the individual affected.

Examples of sexual harassment include, but are not limited to, unwelcome sexual advances, repeated propositions or requests for a sexual relationship to an individual who has previously indicated that such conduct is unwelcome, or sexual gestures, noises, remarks, jokes, questions, or comments about a person's gender, sexuality or sexual experience. Sexual harassment may consist of repeated actions or may even arise from a single incident if sufficiently extreme. The complainant and the respondent (the person alleged to have committed the misconduct) may be of either gender and need not be of different genders.

3. Sexual Assault/Sexual Violence is

A particular type of sexual harassment that includes non-consensual sexual contact, non-consensual sexual intercourse, rape, or other physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. Sexual assault/sexual violence includes, but is not limited to, physical assaults of a sexual nature, such as rape, sexual assault, sexual battery, domestic violence, dating violence, stalking, or attempts to commit these acts.¹

Non-Consensual Sexual Intercourse is:

- any sexual penetration or intercourse (anal, oral or vaginal),
- however slight,
- with any object,
- by a person upon another person,
- that is without consent and/or by force.

Note: "Sexual intercourse" includes vaginal or anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

Non-Consensual Sexual Contact is:

- any intentional sexual touching,
- however slight,
- with any object,
- by a person upon another person
- that is without consent and/or by force.

Note: “Sexual contact” includes intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or any other intentional bodily contact of a sexual manner, including the nonconsensual touching of a person’s intimate parts, or the clothes covering the immediate area of those parts, or forcing a person to touch another’s intimate parts.

4. Sexual Exploitation

Refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact.

Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy,
- Prostituting another student,
- Non-consensual recording, broadcasting sexual activity, including redistribution of pictures, video, or audio,
- Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex),
- Engaging in voyeurism,
- Knowingly exposing another to an STD or HIV,
- Exposing one’s genitals in non-consensual circumstances or inducing another to expose their genitals,
- Sexually based stalking and/or bullying, including cyber-stalking and/or cyber-bullying, may also be forms of sexual exploitation.

5. Statement on Consentⁱⁱ:

- a. Consent is knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid there must be a clear expression in words or actions that the other individual agreed to that specific sexual conduct.
- b. A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs, including so-called “date rape” drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.
- c. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This policy also

covers a person whose incapacity results from a mental or developmental disability, involuntary physical restraint, and/or from the taking of incapacitating drugs.

- d. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. Silence or the absence of resistance alone is not consent.
- e. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.
- f. A minor below the age of consent according to state law cannot consent to sexual activity. This means that sexual contact by an adult with a person below the age of consent is a crime as well as a violation of this policy, even if the minor appeared to have wanted to engage in the act.

6. Statement on Force:

- a. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent (“Have sex with me or I’ll hit you. Okay, don’t hit me; I’ll do what you want.”)
- b. Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Fuller Theological Seminary believes that sexual union must be reserved for marriage, which is the covenant union between one man and one woman, and that sexual abstinence is required for the unmarried. The seminary believes premarital, extramarital, and homosexual forms of explicit sexual conduct to be inconsistent with the teaching of Scripture. Consequently, the seminary expects all members of its community--students, faculty, administrators/managers, staff, and trustees--to abstain from what it holds to be unbiblical sexual practices (Fuller Theological Seminary Community Standard: Sexual Standards).

In deciding whether or not to report sexual assault or misconduct, an alleged victim might have concern about the context of the assault or misconduct. Specifically, a person might be concerned that his or her behavior violated seminary community standards (e.g., by drug or alcohol use), and thus hesitate to report the assault or misconduct. It is the seminary position that the seriousness of sexual misconduct or assault report will be the focus of the investigation and any disciplinary action.

Guidance on Reporting

Fuller Theological Seminary encourages those who have experienced any form of sex discrimination/sexual misconduct to report the incident promptly, to seek all available assistance, and to pursue seminary conduct violation charges and criminal prosecution of the offender. Fuller takes complaints very seriously and will work with victims to ensure their safety as much as possible and to remedy the situation. The seminary will fully cooperate with the police in any related investigation and reserves the right to commence its internal complaint resolution procedures prior to the completion of any police investigation.

Complaints may be filed with a Title IX Coordinator, the Title IX Administrator, or any seminary employee identified as a mandatory reporter. All sexual misconduct complaints made to mandatory reporters will be reported to the Title IX Administrator or a Title IX Coordinator.

Complaint Resolution Procedure

All incidents of sex discrimination, including sexual misconduct or retaliation, should be reported. The Title IX Administrator will provide for the adequate, reliable, and impartial investigation of all complaints.

Title IX Administrator and Title IX Coordinators

The Title IX Administrator and Title IX Coordinators are the individuals designated by the Provost with responsibility for providing education and training about discrimination, harassment, and sexual misconduct to the seminary community and for receiving and investigating reports and complaints of discrimination, harassment, and sexual misconduct in accordance with this policy. The Title IX Administrator is authorized to designate other appropriately trained individuals to receive and investigate reports and complaints of discrimination, harassment, and sexual misconduct as deemed appropriate at his/her sole discretion. Questions about Title IX can be directed to the Title IX Administrator or to the Office of Civil Rights (OCR, <http://www2.ed.gov/about/offices/list/ocr/index.html>) of the U.S. Department of Education.

Title IX Administrator

Teresa Lewis

Director of Institutional Policy Compliance

Office location: 250 N. Madison, #328, Pasadena, CA 91101

Phone: 626.584.5357

Email: tlewis@fuller.edu

Title IX Coordinators

Sam Bang

Assistant Dean of Students

Office location: Kreyssler Hall (Catalyst), 2nd Floor, 130 N. Oakland, Pasadena, CA 91101

Phone: 626-584-5398
Email: sbang@fuller.edu

Laura McDowell

Director of Student Life
Office location: Kreyssler Hall (Catalyst), 2nd Floor, 130 N. Oakland, Pasadena, CA 91101
Phone: 626-584-5435
Email: lauramcdowell@fuller.edu

Steve Yamaguchi

Dean of Students
Office location: Kreyssler Hall (Catalyst), 2nd Floor, 130 N. Oakland, Pasadena, CA 91101
Phone: 626-584-5370
Email: steveyamaguchi@fuller.edu

Bernadette Barber

Executive Director of Human Resources & Organizational Development
Office location: 490 E. Walnut, 2nd Floor, Pasadena, CA 91101
Phone: 626.584.5238
Email: bjbarber@fuller.edu

Eric Jessen

Director of Organizational Development
Office location: 490 E. Walnut, 2nd Floor, Pasadena, CA 91101
Phone: 626.584.5258
Email: jessen@fuller.edu

If you have any questions or concerns related to sexual misconduct, please contact Teresa Lewis, Title IX Administrator.

Mandatory Reporters

All supervisors, administrators/managers, and administrative faculty are mandatory reporters, including community coordinators. A mandatory reporter must report all allegations of sexual misconduct to a Title IX Coordinator or the Title IX Administrator.

Non-Mandatory Reporters

Students, faculty, and staff may wish to seek confidential assistance in dealing with a Title IX violation. The seminary has identified the following employees who will maintain confidentiality under the professional license or professional ethics necessary for performing their employed role at the seminary:

Ted Cosse, PsyD
Licensed Clinical Psychologist

Executive Director
Fuller Psychological and Family Services (FPFS)
180 N. Oakland Ave., 2nd Floor
Pasadena, CA 91101
818-939-3280

Jenn Graffius
Director of Chapel
Kreysler Hall (Catalyst), 3rd Floor
130 N. Oakland Ave.
Pasadena, CA 91101
626-584-5560

Interim Protective Measures

The seminary reserves the right, at the direction of the provost or his/her designee, to suspend or place on immediate administrative leave any member of the campus community accused of violating this policy, or to take any other interim measures the seminary deems appropriate, pending the outcome of an investigation and/or disciplinary proceedings. Such interim measures can include, but are not limited to, placing an employee on paid or unpaid administrative leave, removing a student from campus housing and/or current classes, modifying course schedules, and issuing a “no contact” order, among many other remedies.

Retaliation Prohibited

Fear of retaliation should not hinder the reporting of an alleged violation(s) of sexual misconduct. The seminary strictly prohibits retaliation against a member of the Fuller community who opposes the practices prohibited by this policy against sexual misconduct, who brings forth a complaint, against whom a complaint is brought, or who otherwise is a participant in a complaint resolution process. Such prohibited retaliatory conduct includes, but is not limited to, reducing a student's grade, decreasing an employee's pay, or downgrading a person's performance evaluation. Retaliatory conduct will be considered a violation of seminary policy, and anyone who violates this policy against retaliation will be independently disciplined by the seminary, up to and including possible termination of student status (expulsion) and/or termination from employment.

This policy against retaliation applies to all members of the seminary community, including students, authorized student organizations, faculty, administrators/managers, staff-level employees, and trustees. This policy may also be applicable to complaints deemed to have been submitted without merit and for a retaliatory purpose.

Investigation/Procedures

The Community Standard Response Procedures for Allegations of Discrimination, Sexual Harassment, and the Retaliation Policy will be followed with the following additional provisions:

1. The investigation of a sexual misconduct allegation may proceed whether or not a related criminal matter is pending.
2. In accordance with federal regulations, Fuller will complete investigations within a 60-day time period.
3. Both parties will be provided periodic updates during the complaint resolution process.
4. Both parties will be advised in writing of the outcome of a complaint, at the same time, once a decision has been reached.
5. Allegations of sexual assault will not be resolved by mediation.
6. The standard used to determine whether this policy has been violated is **whether it is more likely than not** that the respondent violated this policy. This is often referred to as a “Preponderance of Evidence” standard.
7. Both parties may have an advisor of their choice present during the investigation process.

Resources for Assistance

- A. Some health care and counseling services, available both on and off campus, include the following:

Fuller Psychological & Family Services

180 North Oakland Avenue

Pasadena, CA 91101

Phone: 626-584-5555

Office Hours: 8:00AM - 4:30PM M-F

Counseling Hours: 8:00AM - 9:00PM M-Th and 8:00AM - 5:00PM Fri

- See more at: <http://www.fuller.edu/fuller-psychological-and-family-services/>

Peace Over Violence - West San Gabriel Crisis Center (Rape Hotline), 626-793-3385

- Helps victims of domestic violence, sexual assault, and stalking by offering referral information and crisis intervention assistance.

Rape Treatment Center at Santa Monica UCLA Medical Center, 310-319-4000

- 24 hours a day, 7 days a week
- www.911rape.org
- Offers comprehensive, free treatment for sexual assault victims and their families, including 24-hour emergency medical care, forensic examinations, crisis intervention, long-term professional counseling, advocacy, and accompaniment services.

Rape Abuse and Incest National Network (RAINN), 800-656-HOPE

- www.rainn.org

- The RAINN hotline offers free, confidential counseling and support 24 hours a day, from anywhere in the country.

B. Seminary Provided Assistance

As stated above, Fuller’s executive director of Fuller Psychological and Counseling Services is available to assist any member of the seminary community who needs help dealing with a sexual misconduct situation in a caring, confidential manner. Fuller Psychological and Family Services is also available to assist members of the seminary community who become clients. In addition, as an ordained clergy member, the Director of Chapel is available for confidential pastoral counseling.

Benefits eligible employees also have an opportunity to utilize the Employee Assistance Program (EAP). All EAP services are free, confidential, and available to all covered members and dependents. The services can be accessed 24 hours a day, 7 days a week, by calling toll-free at **1-800-767-5320**.

END NOTE 1

Violence Against Women Act (VAWA) 1994: For purposes of interpreting and applying VAWA, the following non-exhaustive list of definitions is applicable:

- Dating Violence, as defined in Section 40002 of VAWA 1994, means:
 violence committed by a person—
 A. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 B. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 a. The length of the relationship.
 b. The type of relationship.
 c. The frequency of interaction between the persons involved in the relationship.”
- Domestic Violence, as defined in Section 4002 of VAWA,:
 includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person

similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction."

Immediate Family Member means: "with respect to a person –

A. a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or

B. any other person living in the household of that person and related to that person by blood or marriage."

- Stalking means:

A. "to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and

a. to place under surveillance with the intent to kill, injure, harass or intimidate another person; and

B. in the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to –

a. that person;

b. a member of the immediate family of that person; or

c. the spouse or intimate partner of that person; ..."

The state-specific, criminal law definitions of sexual assault, domestic violence, dating violence, and stalking follow:

California

- **Sexual Assault Defined**

California's criminal law does not define sexual assault, as such. Rather, California has defined many separate sex crimes such as unlawful sexual penetration, rape and sexual battery.

- Sexual Battery

Generally, sexual battery consists of unlawfully touching the intimate part of another person's body. "Intimate part" means the sexual organ, anus, groin or buttocks of any

person, and the breast of a female. Sexual battery occurs when any of the following circumstances exist:

1. Any person touches an intimate part of another person while that person is unlawfully restrained when the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification or sexual abuse.
2. Any person touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated when the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification or sexual abuse, is guilty of sexual battery.
3. Any person touches an intimate part of another person for the purpose of sexual arousal, sexual gratification or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose.
4. Any person who, for the purpose of sexual arousal, sexual gratification or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery.
5. Any person touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification or sexual abuse.

- Unlawful Sexual Penetration

Sexual penetration is the act of causing the penetration, however slight, of the genital or anal opening of any person or causing another person to so penetrate the defendant's or another person's genital or anal opening for the purpose of sexual arousal, gratification or abuse by any foreign object, substance, instrument or device, or by any unknown object.

Any person who commits an act of sexual penetration is guilty of a crime under the following circumstances:

1. When the act is accomplished against the victim's will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person.
2. When the act is accomplished against a victim who is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed.
3. When the act is accomplished against a victim who is at the time unconscious of the nature of the act and this is known to the person committing the act or causing

the act to be committed. “Unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:

1. Was unconscious or asleep.
2. Was not aware, knowing, perceiving or cognizant that the act occurred.
3. Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.
4. Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.
4. When the act is accomplished against a victim when the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.
5. When the act is accomplished against a victim who submits under the belief that the person committing the act or causing the act to be committed is someone known to the victim other than the accused and this belief is induced by any artifice, pretense or concealment practiced by the accused, with intent to induce the belief.
6. When the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official.
7. When the act is accomplished with another person who is under 18 years of age.

- Rape

Rape is an act of sexual intercourse accomplished with a person, under any of the following circumstances:

1. Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. This provision does not apply when the victim and perpetrator are spouses.
2. Where it is accomplished against a person's will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the person or another.
3. Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.
4. Where a person is at the time unconscious of the nature of the act, and this is known to the accused. “Unconscious of the nature of the act” means incapable of resisting because the victim meets any one of the following conditions:
 1. Was unconscious or asleep.
 2. Was not aware, knowing, perceiving or cognizant that the act occurred.

-
3. Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.
 4. Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose. This provision does not apply when the victim and the spouse are married.
 5. Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense or concealment practiced by the accused, with intent to induce the belief. This provision does not apply if the victim and perpetrator are spouses.
 6. Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. "Threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury or death.
 7. Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. The perpetrator does not actually have to be a public official.

- Unlawful Oral Copulation

Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person. It is a crime under the following circumstances:

1. The act of oral copulation is with another person who is under 18 years of age.
2. When the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat
3. When the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person
4. Where the victim is at the time of the act incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act.
5. The act is accomplished while confined in any state prison.
6. The victim is at the time unconscious of the nature of the act and this is known to the person committing the act. "Unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:
 1. Was unconscious or asleep.
 2. Was not aware, knowing, perceiving or cognizant that the act occurred.
 3. Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

-
4. Was not aware, knowing, perceiving or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the oral copulation served a professional purpose when it served no professional purpose.
 7. The victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act.
 8. The victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered.
 9. The victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.
 10. The victim submits under the belief that the person committing the act someone known to the victim other than the accused, and this belief is induced by any artifice, pretense or concealment practiced by the accused.
 11. Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official.

- Unlawful Sexual Intercourse with a Person Under 18

Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. A “minor” is a person under the age of 18 years and an “adult” is a person who is at least 18 years of age.

- Sodomy

Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the act of sodomy. Sodomy is a crime when the act is accomplished upon a person under the age of 18 or when it is accomplished against the victim's will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury.

California

- **Domestic Violence Defined**

Domestic Violence has been defined under California law to mean the infliction or threat of physical harm against past or present adult or adolescent intimate partners, including physical, sexual and psychological abuse against the person, that is a part of a pattern of

assaultive, coercive, and controlling behavior directed at achieving compliance from or control over that person.

In addition, the California Family code has defined domestic violence to mean abuse perpetrated against any of the following persons:

1. A spouse or former spouse.
2. A cohabitant or former cohabitant.
3. A person with whom the respondent is having or has had a dating or engagement relationship.
4. A person with whom the perpetrator has had a child.
5. A child of or the presumed child of the perpetrator or victim.
6. Any other person related by consanguinity or affinity within the second degree.

Abuse means any of the following:

1. Intentionally or recklessly causing or attempting to cause bodily injury.
2. Sexual assault.
3. Placing a person in reasonable apprehension of imminent serious bodily injury to that person or to another.
4. Conduct that can be prohibited as abuse by a court, including: Molesting, attacking, striking, stalking, threatening, battering, credibly impersonating, falsely personating, harassing, telephoning, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of or disturbing the peace.

California

• Dating Violence Defined

California law does not define the term dating violence as such. However, violence between intimate or dating partners is a form of domestic violence.

A dating relationship means a serious courtship; it is a social relationship between two individuals who have or have had a reciprocally amorous and increasingly exclusive interest in one another, and shared expectation of the growth of that mutual interest, that has endured for such a length of time and stimulated such frequent interactions that the relationship cannot be deemed to have been casual.

California

• Stalking Defined

Any person who willfully, maliciously and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking.

Harasses means engages in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments or terrorizes the person, and that serves no legitimate purpose.

Course of conduct means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose.

Credible threat means a verbal or written threat, including that performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct, made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family, and made with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family.

Washington

- **Sexual Assault Defined**

Sexual assault is not specifically defined separately under Washington Law, however, the following Washington definitions are generally included under the umbrella term ‘sexual assault.’

- **Rape**

A person is guilty of rape when such person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory uses or threatens to use a deadly weapon or what appears to be a deadly weapon; or kidnaps the victim; or inflicts serious physical injury; or feloniously enters into the building or vehicle where the victim is situated.

Rape includes when the person engages in sexual intercourse by forcible compulsion, the victim is incapable of consent due to physical helplessness or mental incapacity, or the victim is a person with a developmental disability and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim; or was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

Rape includes when the perpetrator is a health care provider, the victim is a client or patient, and the sexual intercourse occurs during a treatment session, consultation, interview, or examination (unless the client or patient consented to the sexual intercourse with the knowledge that the sexual intercourse was not for the purpose of treatment).

Rape also applies when the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim. There are also special provisions when the victim is a frail elder or vulnerable adult.

Rape also occurs when such person engages in sexual intercourse and the victim's lack of consent was clearly expressed by the victim's words or conduct or the victim engaged in sexual intercourse because of a threat of substantial unlawful harm to his or her property rights.

The State of Washington makes **Indecent Liberties** a crime similar to rape, but the focus is on unlawful sexual contact rather than sexual intercourse.

Rape of Children is a crime that makes it unlawful to have sexual intercourse with children less than sixteen years of age in a variety of circumstances.

Washington

- **Domestic Violence Defined**

Domestic violence means:

1. Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; .
2. Sexual assault of one family or household member by another; or
3. Stalking of one family or household member by another family or household member.

"Family or household members" include spouses or domestic partners, former spouses or former domestic partners, people who have a child in common, adults related by blood or marriage, adults who are presently residing together or who have resided together in the past, people sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, people sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and anyone that has a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

Washington

- **Dating Violence Defined**

The term "dating violence" is not specifically defined under Washington Law. However, the concept of dating violence means **violence committed by a person against a victim who is or has been in a social relationship of a romantic or intimate nature with the perpetrator.**

This concept is covered by the state's domestic violence statute.

Washington

- **Stalking Defined**

A person commits the crime of stalking if, without lawful authority the person:

1. Intentionally and repeatedly harasses or repeatedly (on more than one occasion) follows another person; and
2. The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person; and the stalker either:
 1. Intends to frighten, intimidate, or harass the person (even if the stalker was not given actual notice that the person did not want the stalker to contact or follow the person); or
 2. Knows (or reasonably should know) that the person is afraid, intimidated, or harassed (even if the stalker did not intend to place the person in fear or intimidate or harass the person).

Arizona

- **Sexual Assault Defined**

A person commits sexual assault by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of such person.

Arizona

- **Domestic Violence Defined**

Depending on the relationship between the parties, many criminal acts will be considered domestic violence, including: dangerous crimes against children, homicide, endangerment, intimidation, assault, kidnapping, interfering with custody, sexual assault, trespassing, damage to property, interference with judicial proceedings, failure to obey courts orders,

disorderly conduct, animal cruelty, preventing emergency use of a phone, certain electronic communications, harassment, stalking, surreptitious recordings and injury or permitting endangerment of a child or of a vulnerable adult.

The relationships covered by the domestic violence laws include:

1. when the victim and the perpetrator are or were married, reside or used to reside in the same home,
2. when they have a child in common,
3. either party is pregnant,
4. the victim and the perpetrator (or the perpetrator's spouse) are related a parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law,
5. the victim is a child who resides or resided in the household with the perpetrator and is related to a former spouse of the perpetrator or to a person who resides or resided in the perpetrator's household, or
6. the victim and the perpetrator are or were in a romantic or sexual relationship.

Arizona

• Dating Violence Defined

There is overlap between Arizona's concept of "domestic violence" and the federal concept of "dating violence." Federally, the term "dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. When determining the existence of such a relationship in Arizona, the following factors may be important:

1. the length of the relationship,
2. the type of relationship,
3. the frequency of interaction between the people involved in the relationship, and
4. if the relationship has terminated, the length of time since termination.

Arizona

• Stalking Defined

A person commits stalking if the person intentionally or knowingly engages in a "course of conduct" that is directed toward another person if that conduct would cause a reasonable person to fear for their safety or the safety of their immediate family, and such fear happens.

“Course of conduct” includes maintaining visual or physical proximity to a specific person or directing verbal, written or other threats, whether express or implied, to a specific person on two or more occasions over a period of time, however short. It also includes using any electronic, digital or global positioning system device to surveil a specific person or a specific person's internet or wireless activity continuously for twelve hours or more or on two or more occasions over a period of time, however short, without authorization.

Colorado

- **Sexual Assault Defined**

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

1. The actor causes submission of the victim by means of sufficient consequence reasonably calculated to cause submission against the victim's will; or
2. The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or
3. The actor knows that the victim submits erroneously, believing the actor to be the victim's spouse; or
4. At the time of the commission of the act, the victim is less than fifteen years of age and the actor is at least four years older than the victim and is not the spouse of the victim; or
5. At the time of the commission of the act, the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim; or
6. The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority to coerce the victim to submit, unless the act is incident to a lawful search; or
7. The actor, while purporting to offer a medical service, engages in treatment or examination of a victim for other than a bona fide medical purpose or in a manner substantially inconsistent with reasonable medical practices; or
8. The victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented.

- **Unlawful Sexual Contact**

Any actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if:

1. The actor knows that the victim does not consent; or
2. The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or

-
3. The victim is physically helpless and the actor knows that the victim is physically helpless and the victim has not consented; or
 4. The actor has substantially impaired the victim's power to appraise or control the victim's conduct by employing, without the victim's consent, any drug, intoxicant, or other means for the purpose of causing submission; or
 5. The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority, unless incident to a lawful search, to coerce the victim to submit; or
 6. The actor engages in treatment or examination of a victim for other than bona fide medical purposes or in a manner substantially inconsistent with reasonable medical practices.

Colorado

- **Domestic Violence Defined**

Domestic violence means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. Domestic violence also includes any other crime against a person, or against property, including an animal or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

Intimate relationship means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

Colorado

- **Dating Violence Defined**

Colorado law does not define the term dating violence as such. However, as discussed above, dating violence is a form of domestic violence by virtue of the fact that Colorado defines domestic violence by reference to the term “intimate partner”. Accordingly, dating violence can be properly defined as follows:

“Dating violence means an act or threatened act of violence upon a person with whom the actor is or has been involved in a dating relationship. Domestic violence also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in dating relationship.

Colorado

- **Stalking Defined**

A person commits stalking if directly, or indirectly through another person, the person knowingly:

1. Makes a credible threat to another person and, in connection with the threat, repeatedly follows, approaches, contacts or places under surveillance that person, a member person's immediate family , or someone with whom that person has or has had a continuing relationship; or of that
2. Makes a credible threat to another person and, in connection with the threat, repeatedly makes any form of communication with that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship, regardless of whether a conversation ensues; or
3. Repeatedly follows, approaches, contacts, places under surveillance, or makes any form of communication with another person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship in a manner that would cause a reasonable person to suffer serious emotional distress and does cause that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship to suffer serious emotional distress.

Texas

- **Sexual Assault Defined**

A person commits sexual assault if the person intentionally or knowingly does any of the following:

1. Causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;
2. Causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent;
3. Causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus or sexual organ of another person, including the actor;
4. Causes the penetration of the anus or sexual organ of a child by any means;
5. Causes the penetration of the mouth of a child by the sexual organ of the actor;
6. Causes the sexual organ of a child to contact or penetrate the mouth, anus or sexual organ of another person, including the actor;
7. Causes the anus of a child to contact the mouth, anus or sexual organ of another person, including the actor; or

-
8. Causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.

Texas

- **Domestic Violence Defined**

In Texas, Domestic Violence is called Family Violence. Family Violence is:

1. An act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault or sexual assault (not including defensive measures to protect oneself); or
2. Abuse by a member of a family or household toward a child of the family or household; or
3. Dating violence.

Texas

- **Dating Violence Defined**

Dating violence is an act committed against a victim (other than a defensive measure to protect oneself) intended to result in physical harm, bodily injury, assault or sexual assault or a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault or sexual assault committed by an actor when any of the following apply:

1. The act or threat is against a victim with whom the actor has or has had a dating relationship; or
2. The act or threat is committed against a victim because of the victim's marriage to, or dating relationship with, an individual with whom the actor is in a dating relationship or marriage, or with whom the actor has formerly been in a dating relationship or marriage.

Dating relationship means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of (1) the length of the relationship; (2) the nature of the relationship; and (3) the frequency and type of interaction between the persons involved in the relationship.

A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a dating relationship.

Texas

- **Stalking Defined**

A person commits the crime of stalking if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

1. Causes the other person, a member of the other person's family or household or an individual with whom the other person has a dating relationship to:
 1. fear of bodily injury or death or
 2. fear that an offense will be committed against the other person's property, or
 3. to feel harassed, annoyed, alarmed, abused, tormented, embarrassed or offended; AND
2. Would cause a reasonable person to
 1. fear bodily injury or death for himself or herself;
 2. fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;
 3. fear that an offense will be committed against the person's property; or
 4. feel harassed, annoyed, alarmed, abused, tormented, embarrassed or offended; AND EITHER
3. Constitutes an offense under Texas Penal Code Section 42.07 (Criminal Harassment), or
4. The actor knows or reasonably should know the other person will regard the conduct as threatening any of the following:
 1. Bodily injury or death for the other person;
 2. Bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or
 3. That an offense will be committed against the other person's property.

The above state-specific definitions were provided by Workplace Answers.

ⁱⁱ END NOTE 2

The state-specific, criminal law definitions of consent follow:

California

- **Consent Defined**

In California, consent means positive cooperation in act or attitude pursuant to an exercise of free will. The consenting person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. Consent must be affirmatively and freely given in order to be effective.

Simply having a current or prior marital, dating or sexual relationship is not enough alone (without words or conduct) to establish consent.

Washington

- **Consent Defined**

Consent means that at the time of a sexual act, there are actual words or conduct indicating freely given agreement to such an act. Generally, consent is a defense to a charge of sexual assault. Accordingly and as a general matter, if sexual conduct is consensual, it is not a sexual assault to engage in such conduct. However, when a person is incapable of giving consent (either because of age or incapacity), consent is not a valid defense.

Arizona

- **Consent Defined**

The Arizona Supreme Court noted that “consent” should be assessed according to its ordinary and plain meaning, which has been interpreted as a “willingness in fact for [sexual] conduct to occur.” In reference to sexual assault, examples of what constitute sexual conduct that is “without consent” include (but are not limited to):

1. Coercion by the immediate use or threatened use of force.
2. When the victim is incapable of consent by reason of mental disorder, mental defect drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known (or should have reasonably been known).
3. The victim is intentionally deceived as to the nature of the act.
4. The victim is intentionally deceived to erroneously believe that the person is the victim's spouse.

Colorado

- **Consent Defined**

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 is not sufficient to constitute consent. Submission under the influence of fear does not constitute consent.

Texas

- **Consent Defined**

Consent means assent in fact, whether express or apparent. In any event, if there is no assent in fact, there can be no consent. Also, consent is not effective if it is induced by force, threat, or fraud; or if given by a person who by reason of youth, mental disease or defect, or intoxication is known by the actor to be unable to make reasonable decisions. Also, consent is not effective where the victim is a minor.

In addition, the following list of conduct satisfies the “without the consent” requirement of sexual assault:

1. The other person has not consented and the actor knows the other person is unconscious or physically unable to resist;
2. The other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring;
3. The actor is a public servant who coerces the other person to submit or participate;
4. The actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor;
5. The actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser; or
6. The actor is an employee of a facility where the other person is a resident (unless the employee and resident are formally or informally married).

The above state-specific definitions were provided by Workplace Answers.