



## **ATIXA**

### **HEARING OFFICER & DECISION-MAKER TRAINING AND CERTIFICATION COURSE LEARNING OUTCOME ATTAINMENT TEST SCENARIOS**

#### **SEXUAL HARASSMENT/QUID PRO QUO**

Kristen is trying to decide which professor to take for her Advanced Social Work Practice course this semester, so she goes onto RateMyProfessor.com to learn more about the professors. Kristen comes across a picture of Dr. McDreamy and decides to register for his course because she thinks he is so attractive. Once the semester begins, Kristen makes sure she arrives to class early so she can get a seat in the front row. As he lectures, Dr. McDreamy seems often to look at Kristen and give her a little wink. Kristen always blushes and gives a slight smile in response. Dr. McDreamy often walks around the classroom to monitor the students' progress as they complete assignments. He frequently stops behind Kristen's chair where he puts his hand on her shoulders and leans in to speak with her. Kristen doesn't mind.

One day after class, Dr. McDreamy tells Kristen that he needs to see her in his office. Kristen goes to his office where Dr. McDreamy proceeds to tell Kristen that he has concerns about her performance in the class, as she did not do well on the last test and is on track to earn a "D" for the course. Dr. McDreamy tells Kristen they can talk over coffee about how she can pass the class. Kristen agrees. While at the coffee shop, they have a conversation which Kristen finds to be engaging. Dr. McDreamy then tells Kristen it's not often that he has students in his class who are as beautiful as she is. Kristen thanks him and tells him she finds him attractive too and admits that is the reason she registered for his class. Dr. McDreamy reiterates that he wants to help Kristen pass his class and asks if she is open to a little non-traditional extra credit. Kristen says that she will take any help she can get with passing his class. The two continue talking for a little while, in a flirty manner, and end up going to Dr. McDreamy's house where they kiss and undress each other and proceed to have intercourse. Kristen returns to campus and tells her roommate that she just had a date with the hottest professor on campus. The following week, Dr. McDreamy gives a test which Kristen passes with flying colors. Throughout the semester, Kristen and Dr. McDreamy go out on occasion and have intercourse a few more times. At the end of the semester, Kristen ends up passing the course with a 94%, which is the highest grade in the class.

#### **Policy**

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex that satisfies one or more of the following:

1) Quid Pro Quo:

- a. an employee of the recipient,
- b. conditions the provision of an aid, benefit, or service of the recipient,
- c. on an individual's participation in unwelcome sexual conduct; and/or

2) Sexual Harassment:

- a. unwelcome conduct,
- b. determined by a reasonable person,
- c. to be so severe, and
- d. pervasive, and,
- e. objectively offensive,
- f. that it effectively denies a person equal access to the Recipient's education program or activity.

## UNWELCOME KISSING

Jane and Anisha met freshman year when they lived on the same floor in the same residence hall. They became new members of the same sorority and spent a lot of their down time playing video games or studying together. Sophomore year, Anisha lived in the sorority house and Jane lived in an off-campus house with friends. One Saturday night after a large party at a fraternity, people went to Jane's house to continue partying. As the party began to wind down there were just a couple of people left in the house, including Jane and Anisha, who were playing a video game on the couch. They were talking about being so drunk and "slap happy" because it was so late. Jane beat Anisha at the game, and Anisha tackled Jane on the couch. Both were laughing and wrestling and Anisha was "giving Jane shit" about always beating her. Jane had her arms around Anisha and said, "I love you, bitch." Anisha said, "I love you, too," and kissed Jane on the mouth. Jane pushed Anisha away and jumped off the couch, spitting and wiping her mouth on her arm. Jane said, "What the fuck, dude? Are you lez or something?" Anisha responded, "I'm sorry. I thought...I'm sorry." Anisha left the house quickly after that and has not heard from Jane again.

Jane reported Anisha for sexual assault the following Monday. She reported Anisha was drunk, pinned her down on the couch, and kissed her. In conversation with investigators, Jane acknowledged that Anisha likely did not tackle her with the intent of kissing her. Jane explained that when she said, "I love you, bitch," she did not mean it with any romantic connotation, and she expected Anisha to know that. Jane says the kiss was unwelcome and Anisha should know that it's not okay to do that. She also wants Anisha to stay away from her.

Anisha says it was a simple misunderstanding. She wasn't sure if Jane knew Anisha was bisexual, but she thought the situation (arms around each other, saying "I love you") gave her an opportunity and she took it. She's embarrassed and realizes now that Jane didn't mean it the way Anisha thought.

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3) Sexual assault, defined as:

a) Sex Offenses, Forcible:

- i) Any sexual act directed against another person,
- ii) without the consent of the Complainant,
- iii) including instances in which the Complainant is incapable of giving consent.

b) Forcible Rape:

- i) Penetration,
- ii) no matter how slight,
- iii) of the vagina or anus with any body part or object, or
- iv) oral penetration by a sex organ of another person,
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c) Forcible Sodomy:

- i) Oral or anal sexual intercourse with another person,
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d) Sexual Assault with an Object:

- i) The use of an object or instrument to penetrate,
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e) Forcible Fondling:

- i) The touching of the private body parts of another person (buttocks, groin, breasts),
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## SEXUAL HARASSMENT/HOSTILE ENVIRONMENT

Travis was a new member of the school's lacrosse team and thrilled to be on the team. After the first day of practice, Justin, the team captain, came up to Travis and told him how happy he was that Travis made the cut. In the middle of the second week of practice, as Travis was changing in the locker room, Justin came up to Travis, placed his hand on Travis's bare back, and told Travis that he was into guys and thought Travis was too. Travis replied that he was but noted that Justin was not his type. Justin said he got it.

Two weeks later, when most of the team were at wing night at the local brewery, Justin approached Travis with a drink for him, said he thought Travis should give them a chance because they would make a really hot couple and he could make sure Travis felt good. Travis said no thanks, that he was interested in someone else, and went to find another freshman player to talk to.

That weekend, at a team party after they had won a game, Travis went to get his jacket in one of the apartment's bedrooms and physically bumped into Justin when he was leaving the bedroom. Travis laughed nervously and tried to get out of the way but Justin leaned in and kissed him. The following week, as Travis was showering after practice, Justin seemed to appear out of nowhere next to him, standing too close. He whispered to Justin, "I really am your type," and proceeded to corner Travis along one wall of the shower room and tried to grab Travis's buttocks. Travis didn't say anything and he didn't touch Justin. He left the shower room, quickly finished getting dressed, and left the locker room. He did not tell anyone about the incident immediately afterward, but the following day, he told the coach he was quitting the team.

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Discriminatory harassment constitutes a form of discrimination that is prohibited by Recipient policy. Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law.

Recipient does not tolerate discriminatory harassment of any employee, student, visitor, or guest. Recipient will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a “hostile environment.” A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual’s educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive and objectively offensive.

## SEXUAL VIOLENCE

Alex and Diane are in a romantic relationship and live together. Diane came home after a night out and was very intoxicated. Alex was on the couch watching TV. Diane sat down on Alex's lap, embracing and kissing him. She began to feel dizzy and sick and told Alex she wasn't feeling well and was going to bed. Alex began to kiss Diane's neck, rubbing his hand up her inner thigh under her skirt. Diane did not mind, but as the dizziness persisted, she pushed him away and said she had to go to bed.

Diane went into the bedroom, removed all of her clothing, and got into bed. She began to fall asleep, feeling dizzy and nauseous. She was mildly aware of Alex getting into bed a short time later. Alex scooted up behind Diane and she could tell he was also naked and erect. He put his arm around her, cupping her breast, and began pushing his penis into her buttocks. Diane did not object, and murmured "mmm" but when Alex moved his hand to her vulva, she pushed him away. Diane said, "I don't feel so good." Alex started to rub Diane's back and after about ten minutes, he put his hand back around her and started rubbing her vaginal area. After a minute, Diane said, "Seriously, I might be sick, let's just touch each other," referring to digital penetration.

Diane turned to face Alex and they both began to touch each other's genitals. Diane became more vocal and, it seemed to Alex through her sounds, was enjoying the interaction. After a few minutes, Alex moved on top of Diane, kissed her neck, held her hands above her head, and penetrated her vagina with his penis. This was how they sometimes had sex in the past. Although she said, "Please, stop," after a few seconds, she made sounds that indicated to Alex that she was enjoying the intercourse. Diane then said, "Ow," which Alex understood as communicating she didn't want him to penetrate her as deeply, and so he pulled out and ejaculated on the bed. After he ejaculated, he kissed Diane. She got out from under him and went to the bathroom. Alex followed. He asked Diane if she was okay. She said, "What do you think?" angrily and went back to bed.

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4) Dating Violence, defined as:

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- b. on the basis of sex,
- c. committed by a person,
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i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—

ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

iii. Dating violence does not include acts covered under the definition of domestic violence.

5) Domestic Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of [insert your state here], or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of [insert your state here].

\*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

## PREPONDERANCE

Omar and Devya have been friends since freshman year. Devya texted Omar and they met up at Devya's apartment before a party one weekend and took several shots. Devya felt comfortable with Omar because he was openly gay, and she asked him to help her pick her outfit for the evening, taking her clothes off in front of him multiple times as she tried different combinations. Omar would pull on and adjust her clothes as he considered each outfit, but Devya wasn't bothered by the physical contact, even when he pressed her breasts together to try to improve the appearance of her cleavage in one shirt.

When they got to the party, Devya lost track of Omar for a bit. She was happy to find him a little later, and they had fun dancing. Devya said Omar "grinded" on her, which was fine, but then he started putting his hands on her and groping her, which she was not okay with. They had danced together before, but this night felt different to her. Devya said Omar was much more drunk than she had ever seen him, and even though she continued to pull his hands away from her he wouldn't stop touching her body, including grabbing her breasts. Devya could feel Omar's erect penis through his pants when he rubbed against her.

At one point, Devya took Omar's hands into hers so they would be off her body, shouted, "Stop!" and they danced while they were holding hands. After a little bit, he put his hands back on her and rubbed her butt and started pretending to spank her. He wasn't hitting her hard, and it was clear he thought it was funny, but she didn't. She took his hands in hers and started dancing again. After a few minutes, a friend came up to Devya and asked if she was okay because she looked upset. Devya and her friend left the dance floor and her friend drove Devya home. During the drive, the friend mentioned that she saw what Omar was doing and that he seemed out of control. Devya talked to the same friend a little the next day, and they agreed that Devya should report Omar.

Omar denies the allegations. He agrees with Devya's account of the evening but does not remember the groping and grinding. He just remembers them dancing and having fun, and said that they were both touching each other, but "Just in a fun, playful way." Omar doesn't remember Devya's friend, he just remembered that all of a sudden, Devya was gone. He texted to see where she went, but she never responded. Omar agrees that he drank a lot, but says he remembers the whole evening and thinks Devya is blowing it out of proportion. "Plus," he says, "I'm gay." One of Omar's texts to Devya from after the party said, "Hey, where did you go? We were having sooo much fun. Want to grab sushi tonight?" Devya wants Omar to understand what he did is wrong. He was out of control and he made Devya feel like a piece of meat with no control over her own body. She wants Omar to stay away from her.

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## RETALIATION

Richard was a star basketball player on the men's basketball team. He was dating Davina, a member of the women's basketball team. Davina would talk with Richard about how annoyed she was that the men's team was treated better than the women's team – the men's team had better practice times, better uniforms, and more counselors to help the team members with their academics. Davina reported her concerns to the Title IX Coordinator, and the school started an investigation. During the investigation, a handful of male players were interviewed – Richard was among them. Richard also posted on Twitter, "Come out to the women's bball game! Let's support our women." On the night of the game, Richard posted, "What the literal fuck?! Shabby uniforms won't hold these ladies back! LET'S GO!"

The Athletic Director contacted Coach Roop, the men's basketball coach, and asked him to tell Richard to stop posting about the women's team. The Athletics department had a social media policy that forbade obscenities, although many students still posted curse words and, as long as they weren't directed at individuals, the coaches and the AD had never addressed the issue.

The Athletic Director also told Coach Roop that he had seen Richard leaving the Title IX Coordinator's office and that the Coach needed to do something to make sure his team was on the right track. Coach Roop decided to bench Richard for the next three games. When Richard asked why, Coach told him it was because of his profane posting and they needed him to think about the effect he was having on his teammates and the game. After Richard was benched, he filed a complaint for retaliation against the Athletic Director and Coach Roop.

### Policy

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

No one may take or attempt to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

## DATING VIOLENCE

Students Robert and Brooke have dated off and on for the past two years. Last Saturday, Robert and Brooke attended the Spring Formal, after having a few drinks together at her on-campus apartment. During the evening, Brooke grew increasingly agitated because Robert spent the evening being the center of attention on the dance floor, leaving Brooke by herself, even though she had specifically told him she wanted them to stick together that night. Annoyed and in tears, Brooke left and went back to her apartment.

A few hours later, Robert pounded on her apartment door. Brooke let him in and they began to argue. Brooke noticed Robert had clearly been drinking since she left the formal. His words were slurred, and his eyes were bloodshot. This made Brooke even more upset. Brooke grabbed Robert's phone out of his hand to see whether he had been texting with Jackie, his ex-girlfriend whom he regularly went back to whenever Brooke and Robert were broken up. As Brooke grabbed for the phone, Robert pushed Brooke away and she toppled backward, hitting her head on the coffee table as she fell to the ground. Robert grabbed the phone which had fallen on the ground and walked over to Brooke. He reached out his hand to help her up, but she swatted it away and kicked wildly, shouting, "Get away from me!" and "Don't touch me!" Two of her kicks landed on Robert's stomach and chest. The Police Department responded to Brooke's apartment after a neighbor made a noise complaint. The police arrested Robert and reported the incident to the Title IX Coordinator.

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## STALKING

Lee and Mel are both freshman at The College of Knowledge. They were assigned to the same orientation group and instantly became friends. They began to flirt with each other at parties during welcome week. However, by the second week of classes, Lee had met some other friends and felt Mel was coming on too strong. Mel was romantically interested in Lee and was hoping they could take their friendship to another level.

Mel invited Lee to a party for the campus's LGBTQIA2SP+ Alliance, but Lee declined saying they were sick. Mel then noticed that Lee had blocked them on Facebook. Confused, the next day Mel waited for Lee outside of the classroom. When Lee saw Mel, they instantly took up talking to another classmate, so they were in full conversation when Lee walked passed Mel, pretending they hadn't seen them. That night, Lee saw Mel waiting outside Lee's door in the residence hall. Scared to return, Lee decided to sleep at a friend's room. Mel texted Lee that night, saying, "I guess that's it?" A week later, Mel texted Lee, "I'm rly just confused, what did I do wrong?" Two weeks later Mel texted Lee again saying, "You could have just told me you didn't like me," followed with another text, "I can SEE you've read my text, omg, respond!!"

This morning Lee came into the Title IX Coordinator's office indicating Mel was stalking them. Lee showed the Title IX Coordinator a text from Mel from that morning that said, "I hope you are happy, all of my former friends now go out with you and party every night." Lee is concerned with how it is that Mel knows that they have been going out every night since they haven't talked in several weeks.

### Policy

6) Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
  - i. would cause a reasonable person to fear for the person's safety, or
  - ii. the safety of others; or
  - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.



(iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

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- f. that it effectively denies a person equal access to the Recipient's education program or activity; and/or

## SEXUAL HARASSMENT

Deb is a faculty member working with a small team of seven student research assistants who meet each morning to check-in with each other and the status of their grant projects in the university lab. Amaya is a student team-member who has recently announced that she is pregnant.

One morning, Amaya texted Deb that she was going to miss the morning meeting. Deb announced to the group that they should get started because Amaya wouldn't be joining the meeting that day. A third student researcher, Paulie, responded with a snort, and said, "I bet she has morning sickness. Too bad; her breasts are getting to be GINORMOUS, and I was looking forward to having a peek this morning." Several team members laughed hard at this joke, while a couple of others chuckled uncomfortably.

Deb was livid, and immediately began to wonder how she could work with a team of people who objectify women like this. After the meeting she stormed into the Title IX office to complain about Paulie's conduct. She explained how uncomfortable she felt by the incident, how she no longer could work with Paulie, stating that he should be terminated from the grant-funded position and that the other students who laughed should be put on probation.

### Policy

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex that satisfies one or more of the following:

1) Quid Pro Quo:

- a. an employee of the recipient,
- b. conditions the provision of an aid, benefit, or service of the recipient,
- c. on an individual's participation in unwelcome sexual conduct; and/or

2) Sexual Harassment:

- a. unwelcome conduct,
- b. determined by a reasonable person,
- c. to be so severe, and
- d. pervasive, and,
- e. objectively offensive,
- f. that it effectively denies a person equal access to the Recipient's education program or activity; and/or

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Discriminatory harassment constitutes a form of discrimination that is prohibited by Recipient policy. Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law.

Recipient does not tolerate discriminatory harassment of any employee, student, visitor, or guest. Recipient will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a “hostile environment.” A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual’s educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive and objectively offensive.

## SEXUAL HARASSMENT

Jamal Hewson is a new student at the state's flagship university who quickly gained a reputation in his first-year orientation group for making provocative political arguments. In the first few weeks of his first semester, he could often be found in the common room of his residence hall discussing and debating hot political topics with his new friends.

Jamal delighted in the intellectual debate with his peers, even though he knew some of his new friends were frustrated with his views and accused him of just trolling people for fun. Jamal was invited to start serving as a monthly columnist for the campus's conservative newspaper, *The Voice*. For his first column, he authored a rousing defense of traditional marriage roles. In his column, which he titled, "Consider This: A Woman's Place Is In The Home," he argued that women's empowerment and liberation had gone too far, and he raised a number of arguments in support of women returning to what he described as more "traditional roles" of home keeping and childrearing.

Jamal's first column definitely caused a stir on campus. Samantha Mullen, President of the Women's Leadership Association, a registered student organization on campus, published letters to the editor in both *The Voice*, as well as the mainstream campus newspaper, condemning Jamal's column and demanding his censure by the student government. Within two days, the entire campus was embroiled in conversation about Jamal's column, Samantha's response, and whether the student government should censure Jamal. Samantha was incensed to see some other male students giving Jamal a "high five" in the dining hall. Some of those same students came up to Samantha and tried to argue with her about her letter and how nobody wanted to hear what she had to say. Someone – Samantha didn't know who – posted a borderline misogynistic cartoon on the outside of Samantha's door. Samantha stormed up to Jamal and began to read him the riot act, telling him that his backwards views were causing real harm to the community. Jamal laughed, and responded, "You need to calm down, sweetie. This is why women don't belong in stressful work environments; you just can't handle it."

Samantha decided she had enough. She emailed the Title IX Coordinator that evening, demanding swift action for the hostile education environment that Jamal was creating on the basis of sex. She also asked if she could receive an extension on a huge term paper due the next day, because she was so upset she couldn't possibly finish it on time.

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