

## **Definitions of Prohibited Conduct**

The term “prohibited conduct” includes dating violence, domestic violence, gender-based harassment, retaliation, sex discrimination, sexual assault, sexual harassment, and stalking, as defined in this document, even if the behavior does not rise to the level of unlawful conduct.

### **Dating Violence**

In accordance with the [Violence Against Women Act \(VAWA\)](#), 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 and where the existence of such a relationship will be determined based on the reporting party’s statement and a consideration of:

1. The length of the relationship,
2. The type of relationship, and
3. The frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence below.

### **Domestic Violence**

In accordance with the [Violence Against Women Act \(VAWA\)](#), the term “domestic violence” includes felony or misdemeanor crimes of violence committed by:

1. A current or former spouse or intimate partner of the victim;
2. A person with whom the victim shares a child in common;
3. A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
4. Any other member of the victim’s family as defined by state law;
5. Any other current or former member of the victim’s household as defined by state law (i.e., a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, including, but not limited to, student housing roommates); or
6. Any other person who acts against the victim in violation of the family violence laws of this state or the jurisdiction where the conduct occurs (i.e., any other person against an adult or youth victim who is protected from that person’s actions under the domestic or family violence laws of the jurisdiction in which the violence occurred).

### **Gender-Based Harassment**

Gender-based harassment includes physical, verbal, or non-verbal conduct based on the student’s or employee’s gender, the student’s or employee’s expression of characteristics perceived as stereotypical for the student’s or employee’s gender, or the student’s or employee’s failure to conform to stereotypical notions of masculinity or femininity. For purposes of this policy, gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, pervasive, and objectively offensive that the conduct limits or denies a student’s or employee’s ability to participate in or benefit from Collin College’s educational program.

Acts of gender-based harassment may also be considered sex discrimination or sexual harassment.

### **Examples**

Examples of gender-based harassment directed against a student or employee, regardless of the student’s or employee’s or the harasser’s actual or perceived sexual orientation or gender identity, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property. Examples may also include forms of dating violence, domestic violence, or stalking.

## **Retaliation**

Retaliation against anyone involved in the complaint process is a violation of Collin College policy and is prohibited. Neither Collin College nor any person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by applicable federal Title IX regulation; this policy; or because the individual has made a report or complaint, testified, assisted with, participated in, or refused to participate in a Title IX investigation, proceeding, or hearing.

Charging an individual with a violation(s) that does not involve sexual harassment, but arises out of the same facts or circumstances as a formal complaint of sexual harassment, for the purposes of interfering with any right or privilege secured by applicable federal Title IX regulations, constitutes retaliation.

In an effort to prevent acts of retaliation, Collin College will keep confidential and not disclose the identities of complainants, respondents, and witnesses, except as permitted by the [Family Educational Rights and Privacy Act of 1974 \(FERPA\)](#), required by law, or necessary to investigate and resolve a Title IX complaint.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a violation(s) for making a materially false statement in bad faith in the course of a Title IX complaint proceeding does not constitute prohibited retaliation. However, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

Complaints alleging retaliation in connection with a complaint or investigation of prohibited conduct as defined by this policy will be addressed in accordance with this policy.

Complaints alleging retaliation in connection with other policies or laws may be filed in accordance with Collin College's prompt and equitable grievance procedures. For more information, see Board policies DIAB (LOCAL) and FFDB (LOCAL), and the student and employee disciplinary processes. To view Board policies DIAB (LOCAL) and FFDB (LOCAL), go to <https://pol.tasb.org/PolicyOnline/SearchResults/?key=304&query=retaliation>. For more information on the student disciplinary process, see the *Student Code of Conduct* located in the current *Collin College Student Handbook* available at [www.collin.edu/studentresources/deanofstudents/studenthandbook.html](http://www.collin.edu/studentresources/deanofstudents/studenthandbook.html), or contact the District Dean of Students Office at 972.881.5604 or [dos@collin.edu](mailto:dos@collin.edu). For more information on the employee disciplinary process, contact the Human Resources Department at 972.758.3856 or [hr@collin.edu](mailto:hr@collin.edu).

## **Examples**

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

## **Sex Discrimination**

Sex discrimination against a student or employee is defined as conduct directed at a student or employee on the basis of sex or gender that adversely affects the student or employee.

## **Sexual Assault**

Sexual assault is a form of sexual harassment. Sexual assault includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol or due to an intellectual or other disability. In accordance with the [Clery Act](#), sexual assault is any sexual act directed at another person, without consent of the victim, including instances where the victim is incapable of giving consent; and includes attempted sexual acts, fondling, incest, rape, and statutory rape.

## **Sexual Harassment**

### **Title IX Definition**

In accordance with [Title IX](#), as amended May 19, 2020, sexual harassment means conduct on the basis of sex that satisfies one (1) or more of the following:

1. A Collin College employee conditioning the provision of an aid, benefit, or service of Collin College on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo sexual harassment);
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Collin College's education program or activity; or
3. Sexual assault, as defined in the [Jeanne Clery Campus Safety Act \(Clery Act\)](#); and dating violence, domestic violence, or stalking as defined in the [Violence Against Women Act \(VAWA\)](#).

Note: Quid pro quo sexual harassment, Clery Act, and VAWA offenses are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access because prohibiting such conduct presents no First Amendment concerns and such serious misconduct causes denial of equal educational access.

#### **Texas Education Code Section 51.251 Definition**

For the purpose of mandatory reporting required by the [Texas Education Code Section 51.252](#), "sexual harassment" means unwelcome, sex-based verbal or physical conduct that:

1. In the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or
2. In the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary educational institution.

#### **Sexual Harassment of a Student by an Employee**

For purposes of this policy, sexual harassment of a student by a Collin College employee includes unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or non-verbal conduct; or other conduct or communication of a sexual nature when:

1. A Collin College employee causes the student to believe that the student must submit to the conduct in order to participate in a Collin College program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct (i.e., quid pro quo harassment);
2. It is based on unwelcome conduct that a reasonable person would determine is so severe, persistent, pervasive, and objectively offensive that it limits or denies the student's educational access and/or ability to participate in or benefit from Collin College's educational program; or
3. Any instance of sexual assault, as defined in the [Jeanne Clery Campus Safety Act \(Clery Act\)](#); and dating violence, domestic violence, or stalking as defined in the [Violence Against Women Act \(VAWA\)](#).

Note: Quid pro quo sexual harassment, Clery Act, and VAWA offenses are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access because such misconduct is considered sufficiently serious to deprive a student of equal access.

#### **Sexual Harassment of a Student by Others**

Sexual harassment of a student, including harassment committed by another student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or non-verbal conduct when the conduct is so severe, persistent, or pervasive, and objectively offensive that it limits or denies a student's ability to participate in or benefit from Collin College's educational program. Physical contact not reasonably construed as sexual in nature is not sexual harassment.

#### **Sexual Harassment of an Employee**

For purposes of this policy, sexual harassment is a form of sex discrimination defined as unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or non-verbal conduct; or other conduct or communication of a sexual nature when:

1. Submission to the conduct is either explicitly or implicitly a condition of an employee's employment, or when submission to or rejection of the conduct is the basis for an employment action affecting the employee;
2. It is based on unwelcome conduct that a reasonable person would determine is so severe, persistent, pervasive, and objectively offensive that it has the purpose or effect of unreasonably interfering with the employee's work performance or creates an intimidating, threatening, hostile, or offensive work environment; or
3. Any instance of sexual assault, as defined in the [Jeanne Clery Campus Safety Act \(Clery Act\)](#); and dating violence, domestic violence, or stalking as defined in the [Violence Against Women Act \(VAWA\)](#).

Note: Quid pro quo sexual harassment, Clery Act, and VAWA offenses are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access because such misconduct is considered sufficiently serious to deprive an employee of equal access.

### **Examples**

Examples of sexual harassment may include sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; jokes or conversations of a sexual nature; offensive or derogatory language of a sexual nature directed at another person; and other sexually motivated conduct, communication, or contact. Examples may also include forms of dating violence, domestic violence, or stalking.

### **Stalking**

In accordance with the [Violence Against Women Act \(VAWA\)](#), the term "stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.

For the purposes of this definition:

1. "Course of conduct" means two (2) or more acts, including, but not limited to, acts in which the stalker 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.
2. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.
3. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.