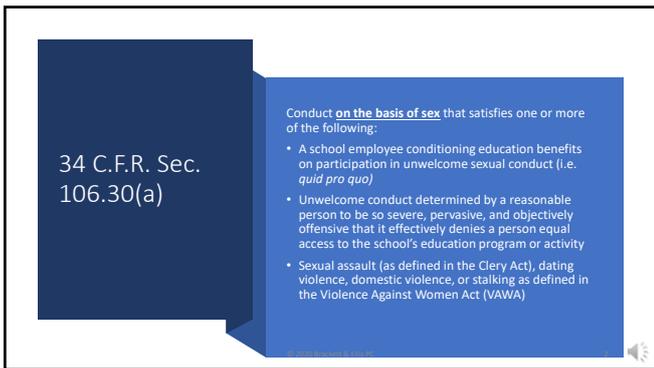
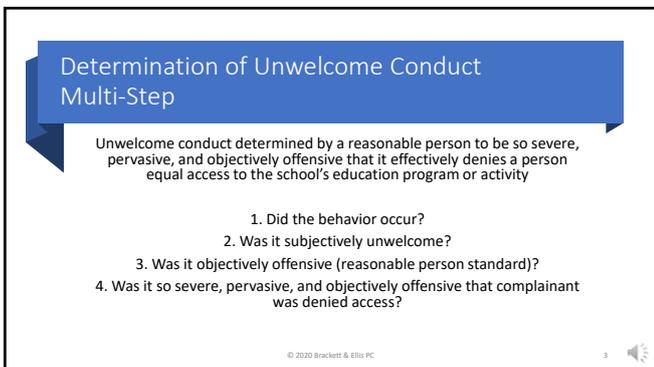


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3

Conduct

- Comments and/or remarks
 - Refer to physical appearance
 - Refer to romantic or sexual desire
- Touching
 - Inappropriate/genitalia
 - Sexually provocative
- Repeated requests
 - Have sex
 - Go on a date
- Sharing sexual pictures or literature
- Spreading sexual rumors
- Leering/staring
- Stalking
- Sharing personal/sexual details
- Asking for personal/sexual details

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4

Unwelcome

- Subjective to complainant
- Any behavior, sexual in nature or gender-based, that is not initiated by the complainant and which the complainant **personally** finds offensive.
- How a complainant responds to behavior should be considered in determining whether conduct is unwelcome
- Behavior can be inappropriate without being unwelcome
- Unable to consent (age, disability, under the influence, etc.)
- Remarks or jokes, romantic advances, gestures, etc.

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5

Reasonable Person Standard

- Objective legal fiction
- Theoretical person in society who shows average judgment, skill, or care in his or her conduct
- An attempt to avoid extremes and violations that are not predictable
- Not at the whims of an individual but a societal norm instead

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6

Severe, Pervasive, and Objectively Offensive

- Factors to consider:
 - Frequency of the offensive conduct
 - Nature of the unwelcome sexual acts or words (physical, verbal, or both)
 - Merely an offensive utterance (sticks and stones...)
 - Relationship between the parties
 - Ages of the parties involved
 - Number of parties involved
- It is necessary to find that the behavior effectively denied the complainant an equal access to the school's education program or activity

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7

Education Program or Activity

- Broad definition
- Locations, events, or circumstances over which the school exercises substantial control over both the respondent and the context in which the alleged sexual harassment occurred
- Applies whether such programs or activities occur on-campus or off-campus as long as school has some control
- School may address sexual harassment affecting its students or employees that falls outside Title IX in any manner the school chooses

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Zero Tolerance Behaviors

- For the following behavior, it is NOT necessary to find that the behavior effectively denied the complainant an equal access to the school's education program or activity
- The behavior, by itself, is enough to establish discrimination based on sex

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Quid Pro Quo

- An employee of the school conditioning the provision of an aid, benefit, or service of the school on an individual's participation in unwelcome sexual conduct.
- No reason to look at result on complainant. Behavior alone sufficient.

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Sexual Assault (under the Clery Act)

"Sexual Assault" means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

- Rape—The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or temporary or permanent mental incapacity.
- Incest—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape—Sexual intercourse with a person who is under the statutory age of consent.

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Violence Against Women Act (VAWA)

"Dating Violence" 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:

- (i)** The length of the relationship.
- (ii)** The type of relationship.
- (iii)** The frequency of interaction between the persons involved in the relationship.

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Violence Against Women Act (VAWA)

"Domestic Violence" includes

- felony or misdemeanor crimes of violence committed by
 - a current or former spouse or intimate partner of the victim,
 - a person with whom the victim shares a child in common,
 - a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
 - a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or
 - 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.

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Violence Against Women Act (VAWA)

"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- (A) fear for his or her safety or the safety of others; or
- (B) suffer substantial emotional distress.

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Myth Busting

- Student to Student
- Employee to Student
- Employee to Employee
- Student to Employee???
- Male to Female
- Male to Male???
- Female to Female???
- Female to Male???
- Homosexual???
- Gender Identity???
- Transgender???

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Questions???

Tom Myers, J.D.
817-339-2467
tmyers@belaw.com

Lynn Rossi Scott, J.D.
817-339-2464
lscott@belaw.com

Jim Whitton, J.D.
817-339-2473
jwhitton@belaw.com



Brackett & Ellis, P.C.
100 Main Street
Fort Worth, Texas 76102
817-338-1700
www.belaw.com

Sarah Flournoy, J.D., Ed.D.
817-339-2417
sflournoy@belaw.com

Asst. Melissa Lambert
817-339-2427
mlambert@belaw.com

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