

DEFINITIONS

Title IX - Title IX of the Educational Amendments of 1972 bans sex discrimination in schools receiving federal funds, whether it is in academics or athletics.

Preponderance of the evidence - standard (i.e., it is more likely than not that sexual harassment or violence occurred). Preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence. Thus, one clearly knowledgeable witness may provide a preponderance of evidence over a dozen witnesses with hazy testimony, or a signed agreement with definite terms may outweigh opinions or speculation about what the parties intended.

Unwelcome - Conduct is unwelcome if the student did not request or invite it and “regarded the conduct as undesirable or offensive.” Acquiescence in the conduct or the failure to complain does not always mean that the conduct was welcome.

Investigation - An investigation is a systematic, minute, and thorough attempt to learn the facts about something complex or hidden; it is often formal and official.

The specific steps in an investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved, the size and administrative structure of the school, and other factors. However, in all cases the inquiry must be prompt, thorough, and impartial.

Examination - an orderly attempt to obtain information about or to make a test of something, often something presented for observation: a physical examination. An inquiry is an investigation made by asking questions rather than by inspection, or by study of available evidence: an inquiry into a proposed bond issue. Research is careful and sustained investigation.

Domestic Violence - Any felony or misdemeanor crime 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 cohabitating with or has cohabitated 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. (VAWA Definition).

Associated State of Nebraska Statutes:

- Statute [28-323](#) defines Intimate relationship as “a spouse; former spouse; persons who have a child in common whether or not they have been married or lived together at any time; and persons who are or were involved in a dating relationship.

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- Statute [42-903](#) defines Family and household members as “spouses or former spouses, children, persons who are presently residing together or who have resided together in the past, persons who have a child in common whether or not they have been married or have lived together at any time, other persons related by consanguinity or affinity, and persons who are presently involved in a dating relationship.
- Statute [42-903](#) defines abuse as “Attempting to cause or intentionally and knowingly causing bodily injury with or without a dangerous instrument; or placing by means of credible threat, another person in fear of bodily injury. For purpose of this subdivision credible threat means a verbal or written threat, including a threat 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 that is made by a person 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 or engaging in sexual contact or sexual penetration without consent.

Dating Violence - 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. (VAWA Definition)

Associated State of Nebraska Statutes:

- Statutes [28-323](#) and [42-903](#) define a dating relationship as “Frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context.

Stalking - 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. (VAWA Definition)

Associated State of Nebraska Statutes:

- Statute [28-311.01](#) – Terroristic Threats – Any person who threatens to commit any crime of violence with the intent to terrorize another.

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- Statute [28-311.02](#) and [28-311.03](#) - Stalking and harassment - Any person who willfully harasses another person or a family or household member of such person with the intent to injure, terrify, threaten, or intimidate commits the offense of stalking.

Sexual Harassment - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- 1) submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or academic advancement;
- 2) submission to or rejection of such conduct by an individual is used as the basis for decisions affecting an individual's employment or academic standing;
- 3) such conduct has the purpose or effect of unreasonably interfering with a person's work or academic performance or creating an intimidating, hostile or offensive work, learning or social environment.

Sexual Assault - 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. This definition includes any gender of victim or perpetrator. Sexual penetration means 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, or by a sex-related object. The definition also includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent.

Consent - "Agreement, approval, or permission as to some act or purpose, esp. given voluntarily by a competent person; legally effective assent." Black's Law Dictionary, 346 (9th ed. 2007). "Consent" is not defined by the Nebraska Criminal Code. Rather, the criminal laws dealing with sexual assault offenses (which include what is commonly referred to as rape) defines what "Without consent" means. State of Nebraska Statute: [28-318](#).

Sex Offenses -

1. Incest- Non-forcible sexual intercourse between persons who are related to each other within the degree wherein marriage is prohibited by law.
2. Statutory Rape- Non-forcible sexual intercourse with a person who is under statutory age of consent.
3. Forcible Fondling – The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and or against that person's will: or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because his/her temporary or permanent mental incapacity.

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Associated State of Nebraska Statutes:

- Statute [28-318](#) - Sexual Assault Terms, defined;
- Statute [28-319](#) - Sexual Assault; first degree;
- Statute [28-319.01](#) - Sexual Assault of a Child; first degree;
- Statute [28-320](#) - Sexual Assault; second or third degree;
- Statute [28-320.01](#) - Sexual Assault of a Child; second or third degree;
- Statute [28-320.02](#) - Sexual Assault; Use of Electronic Communication Device;
- Statute [28-322.05](#) - Unlawful Use of the Internet by a Prohibited Sex Offender;
- Statute [28-703](#) - Incest.

Harassment Protection Order – State of Nebraska Statute [28-311.09](#). A court order restraining a subject from imposing any restraint upon another person to include harassing, threatening, assaulting, molesting, attacking or otherwise disturbing that persons peace.