



## **Faculty Against Rape Frequently Asked Questions about Retaliation**

This document specifically deals with retaliation against faculty and staff on college campuses in response to their work on issues of sexual violence. This document is not intended as legal advice.

### **What is retaliation?**

Retaliation is an act(s) of intimidation, threat, or discrimination in response to a faculty or staff member speaking out about campus sexual assault issues.

### **What laws apply protect me from retaliation?**

Many different laws apply to retaliation against faculty and staff for bringing attention to campus mishandling of sexual assault issues. These laws cover faculty and staff who have been involved in a formal Clery, civil rights, or Title IX complaint.

The Clery Act contains explicit language prohibiting retaliation against those who blow the whistle on institutional mishandling of sexual assault issues. This applies to faculty and staff who have been involve in a Clery complaint in any way (e.g., as a complainant, witness, interviewee, etc.)

Nothing in this subsection shall be construed to permit an institution, or an officer, employee, or agent of an institution, participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 to retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual with respect to the implementation of any provision of this subsection.

The Civil Rights Act also deems it illegal to retaliate against an employee for reporting sexual harassment or other discrimination:

Intimidatory or retaliatory acts prohibited. No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

The Office for Civil Rights recently additional guidelines specifically for campus activists who are in any way involved in a Title IX complaint:

If, for example, an individual brings concerns about possible civil rights problems to a school's attention, it is unlawful for the school to retaliate against that individual for doing so. It is also unlawful to retaliate against an individual because he or she made a complaint, testified, or participated in any manner in an OCR investigation or proceeding... OCR will continue to vigorously enforce this prohibition against retaliation.

### **How do I know if I have been retaliated against?**

Faculty Against Rape have heard from numerous faculty and staff members who have faced retaliation for their work on sexual assault issues. This retaliation has come in the following forms:

- Denial of tenure.
- Failure to renew an expected adjunct teaching contract.
- Being publicly or privately reprimanded for criticizing the institution's mishandling of sexual assault.
- Having professional credentials and expertise on sexual assault issues challenged or dismissed in public and private meetings.
- Denial of an expected, meritorious job promotion.
- Denial of an expected, meritorious pay increase.
- Experiencing increased surveillance by the institution.

### **What can I do about retaliation?**

If you believe you are being retaliated against, immediately start recording events of retaliation. Save and print emails, record meetings and phone calls, and keep a detailed record of every incident you experience.

You can also contact the OCR at [ocr@ed.gov](mailto:ocr@ed.gov) to file a formal complaint of retaliation. To show that you have been retaliated against, you must demonstrate that:

- You engaged in activities or asserted rights protected under Title IX;
- Your school knew of those activities or asserted rights;
- Your school then subjected you to adverse action, treatment or conditions; and
- There is a causal connection between the protected activity and the retaliation.

We strongly recommend that you also retain an attorney to protect against further retaliation and to prevent long-term career and reputational damage.

**Faculty Against Rape staff members are available to discuss your retaliation experiences and options. Please contact us at 323.251.9360 or [facultyagainstrape@gmail.com](mailto:facultyagainstrape@gmail.com).**