Parker Poe

Attorneys & Counselors at Law

Sexual Harassment 101: What Every College and University Employee Should Know

Attorneys and Counselors at Law

Parker Poe Adams & Bernstein LLP

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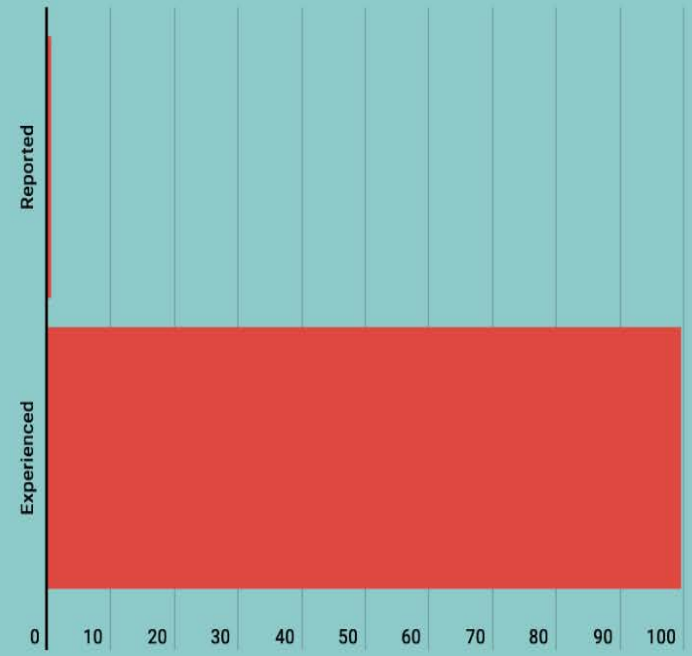
EEOC Statistics for Fiscal Year 2019

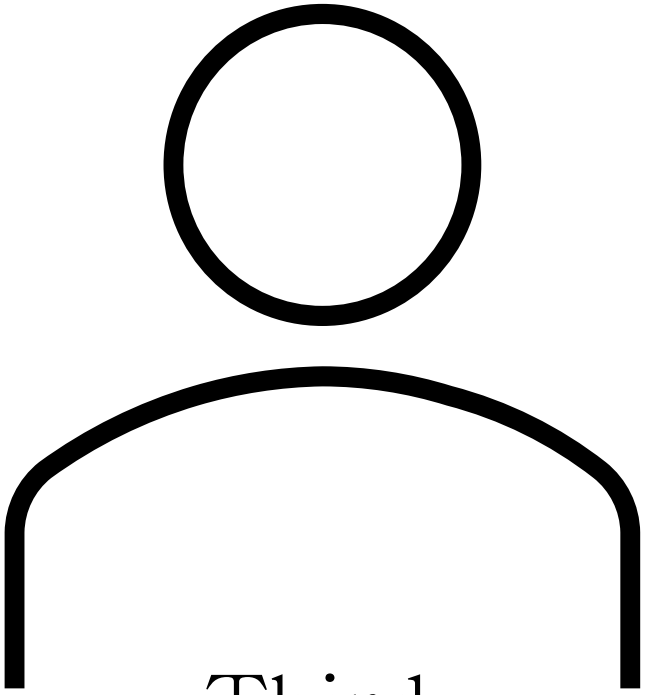
Sex discrimination:	23,532
Sex-based harassment:	12,739
Sexual harassment:	7,514
Percent filed by women:	83%

1 in 3 women say they have experienced sexual harassment at work.



The Roles You Play

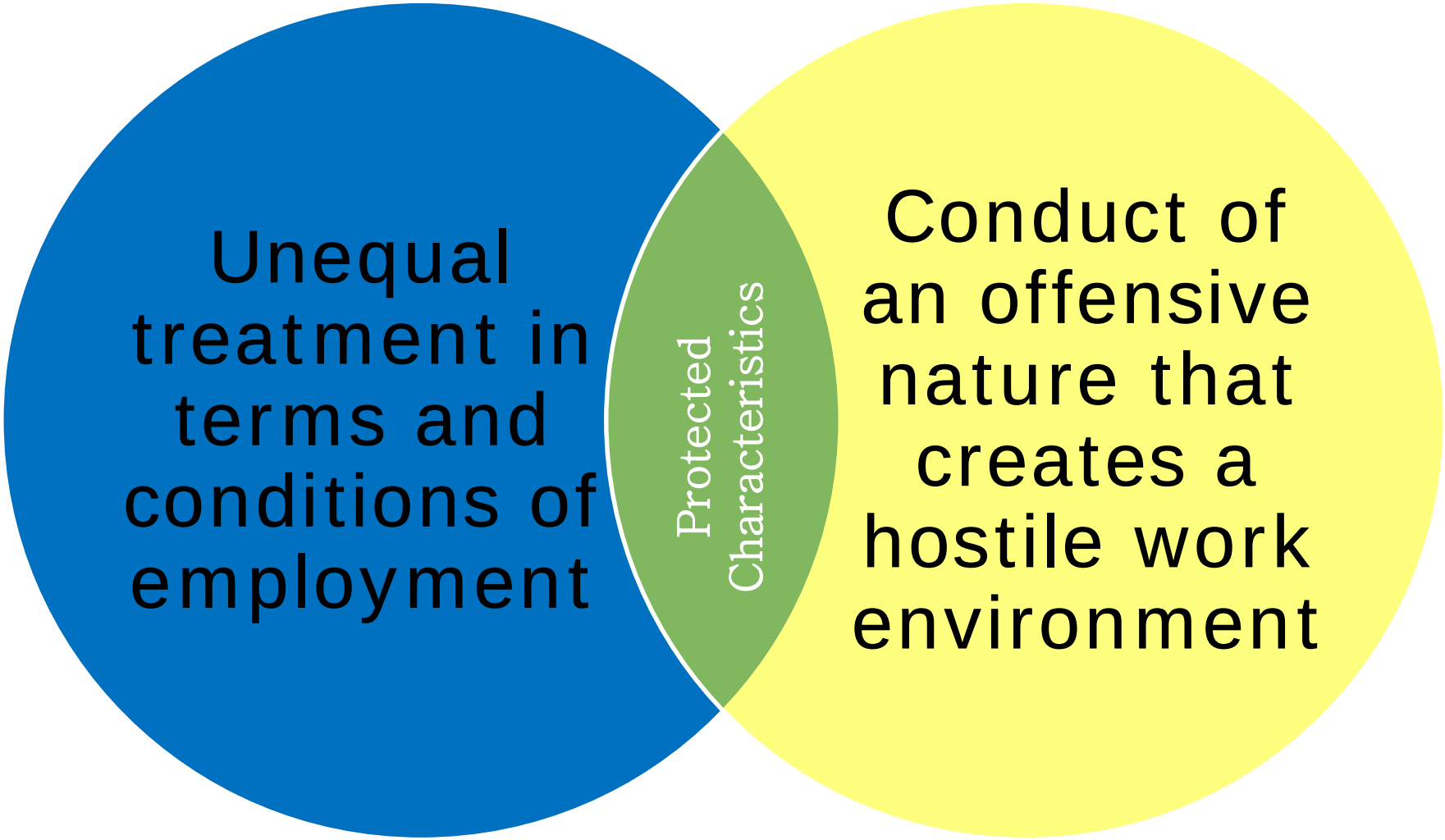
Potential Victim



Potential Harasser

Third Party

Discrimination v. Harassment



Protected Characteristics

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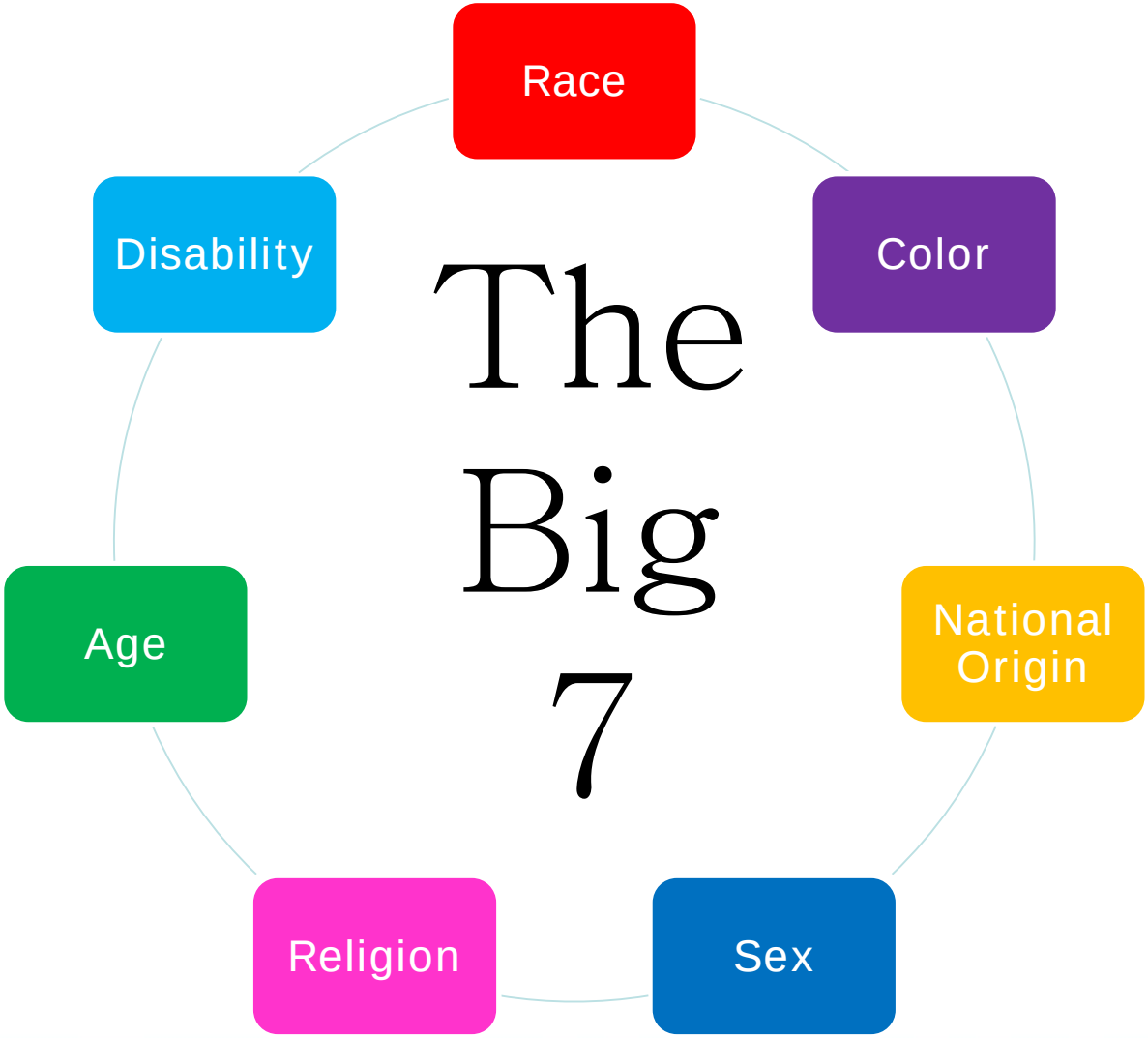
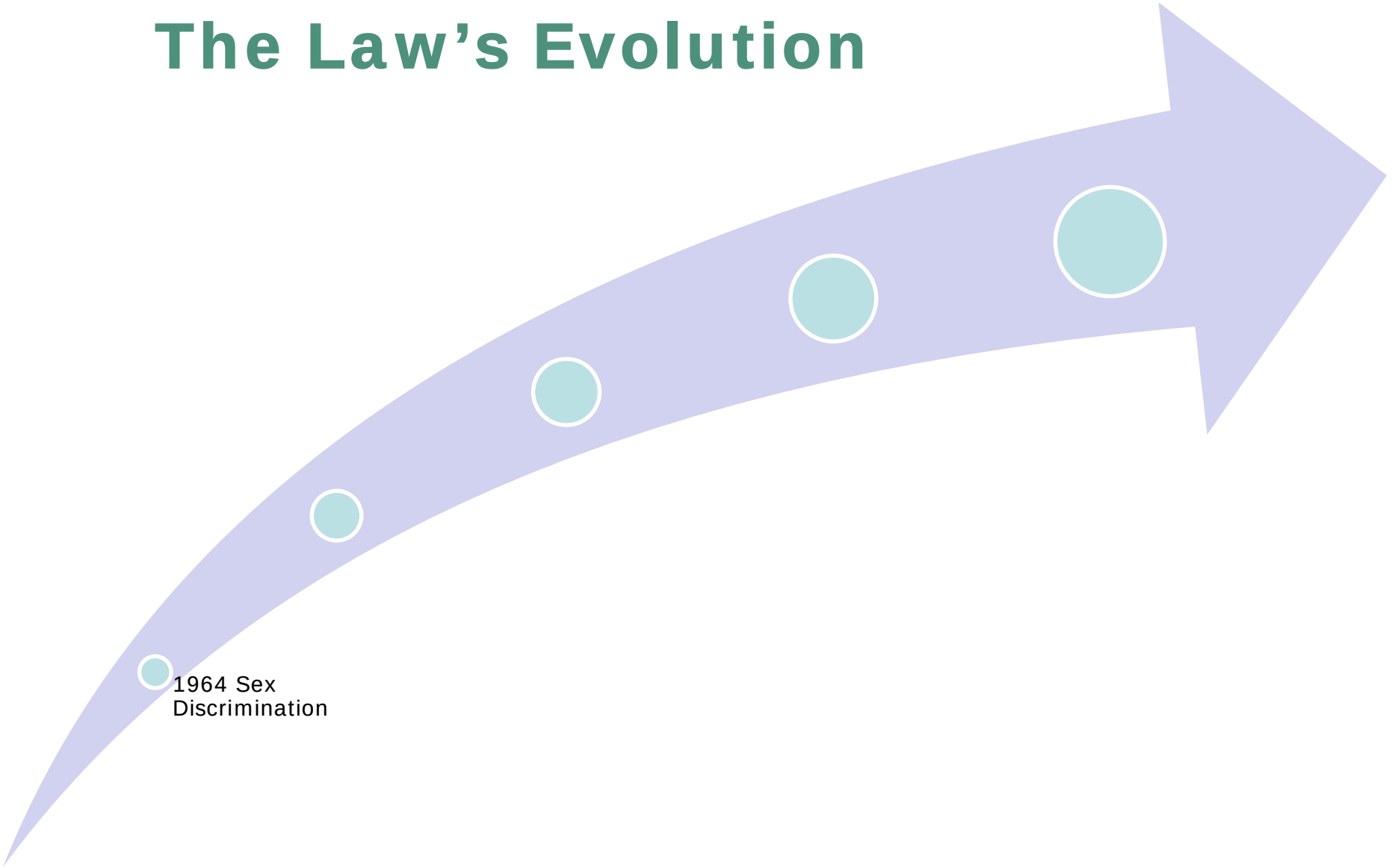


The Law's Evolution



The Law's Evolution

1964 Sex

1986
Sexual
Harassment

The Law's Evolution

1964 Sex

1986 Sexual Harassment

1989 Sexual Stereotyping

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1996 Same Sex Sexual Harassment

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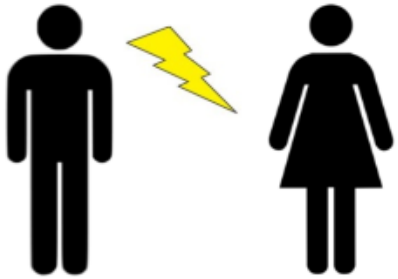
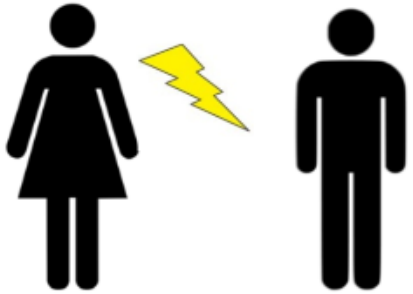
2020 Sexual Orientation and Gender Identity

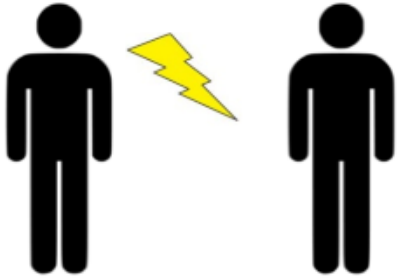
It is illegal workplace conduct for...



A man to sexually harass a woman.

A woman to sexually harass a man.





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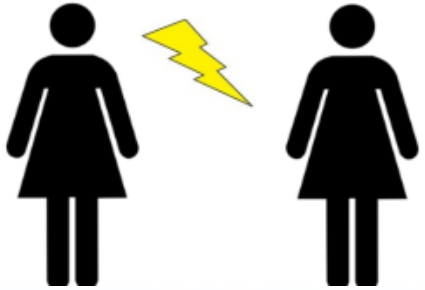
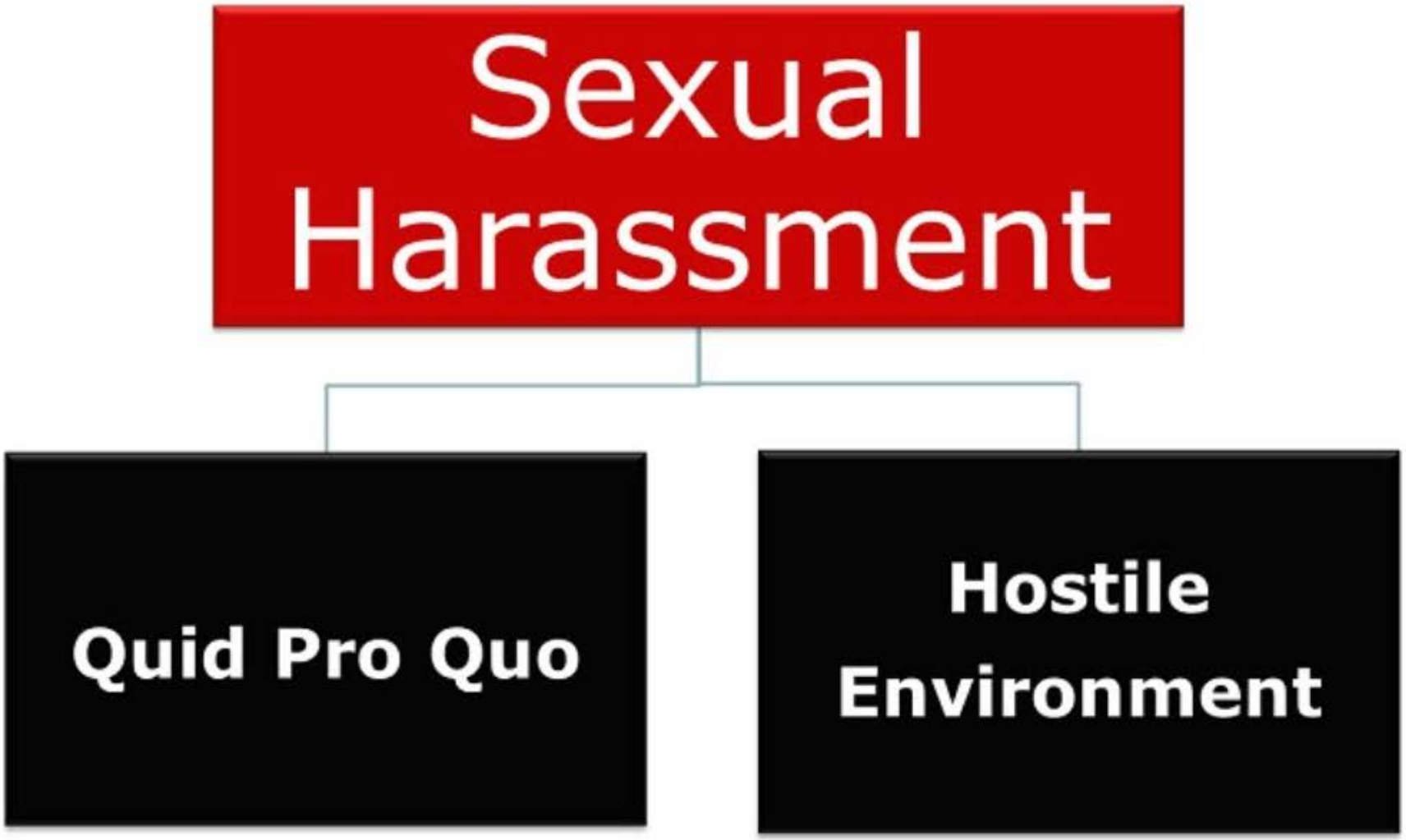
A woman to sexually harass a woman.



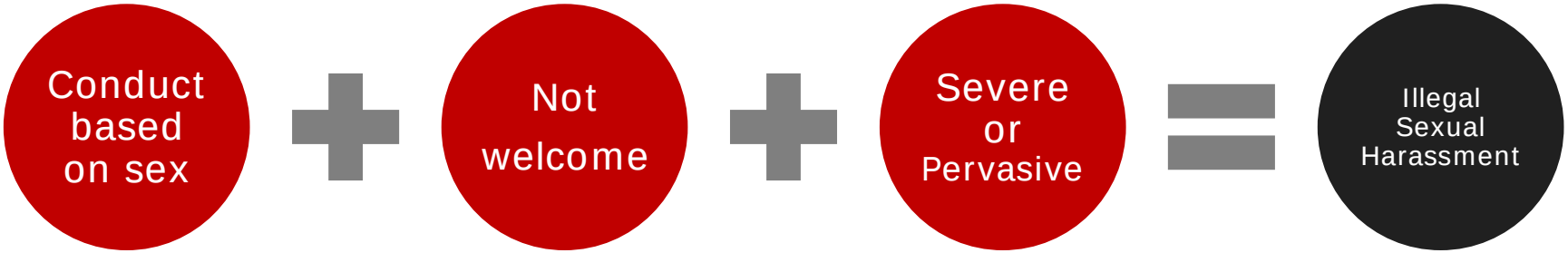

Sexual Harassment
Quid Pro Quo
Hostile Environment

QUID PRO QUO SEXUAL HARASSMENT

- Involves abuse of power, typically by a supervisor
- Reward/punishment conditioned on sexual behavior

You want a part in my movie, right? Well, there are things I want from you, too.

Hostile Environment Harassment



The word "conduct" casts a wide net

PHYSICAL:

Back rubs, sexual touching, targeted hugging, handsiness

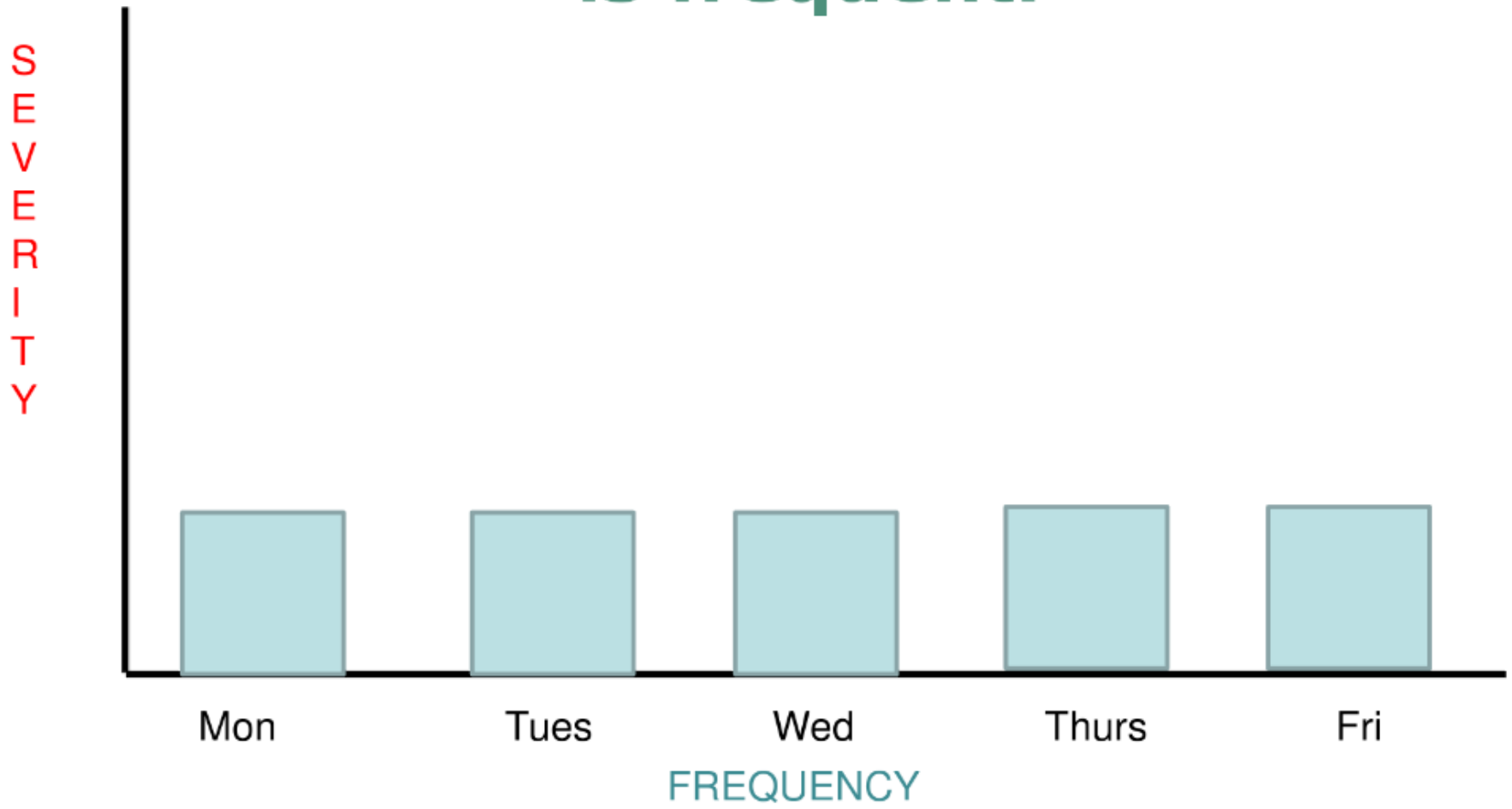
VERBAL:

Jokes, explicit language, comments, threats or banter, sexually suggestive sounds, songs

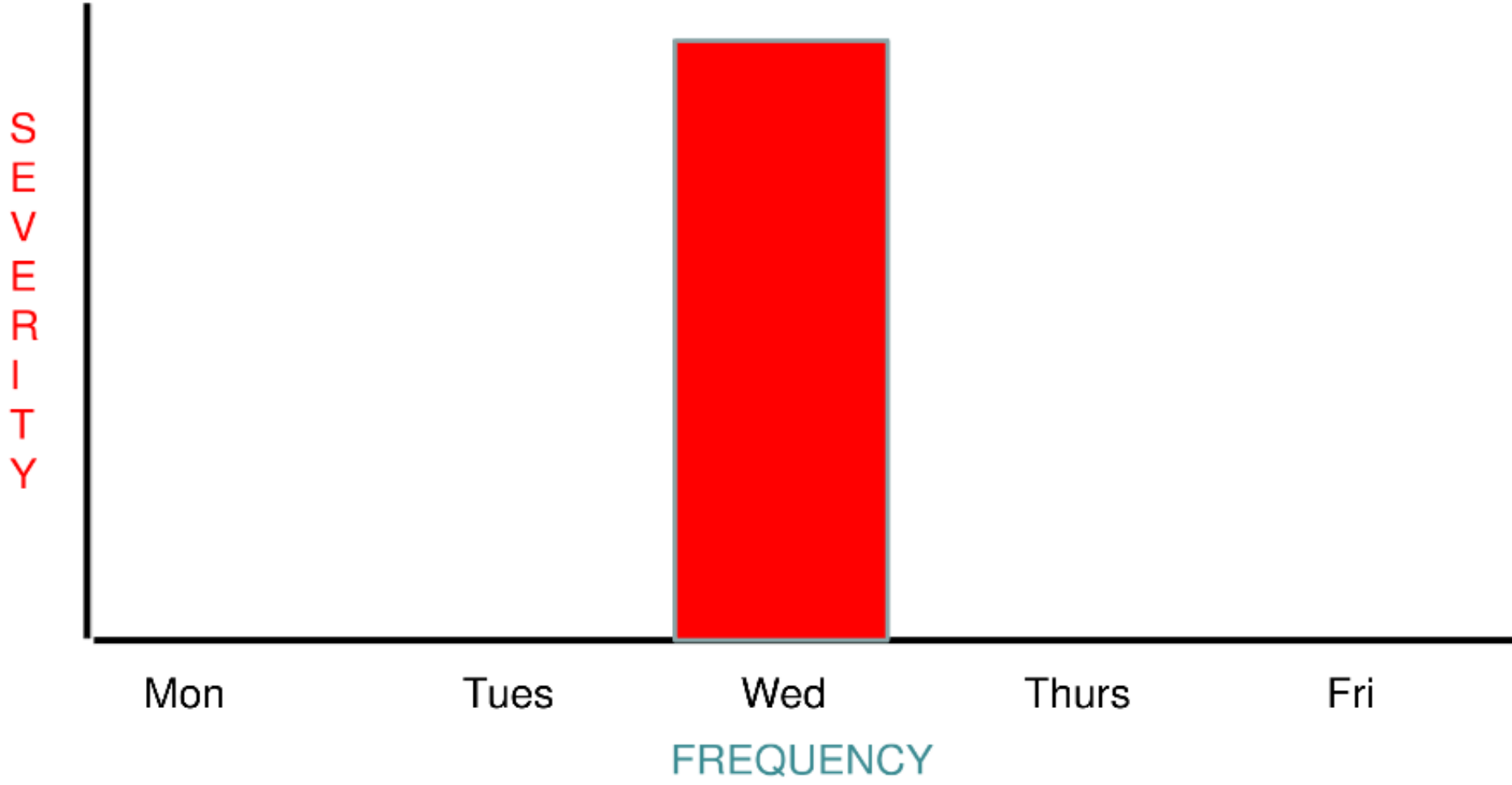
NON-VERBAL:

Ogling, leering, staring, offensive emails, pictures, text messages, websites

Offensive conduct can unreasonably interfere with work performance if it is frequent.



Offensive conduct can unreasonably interfere with work performance if it is severe.



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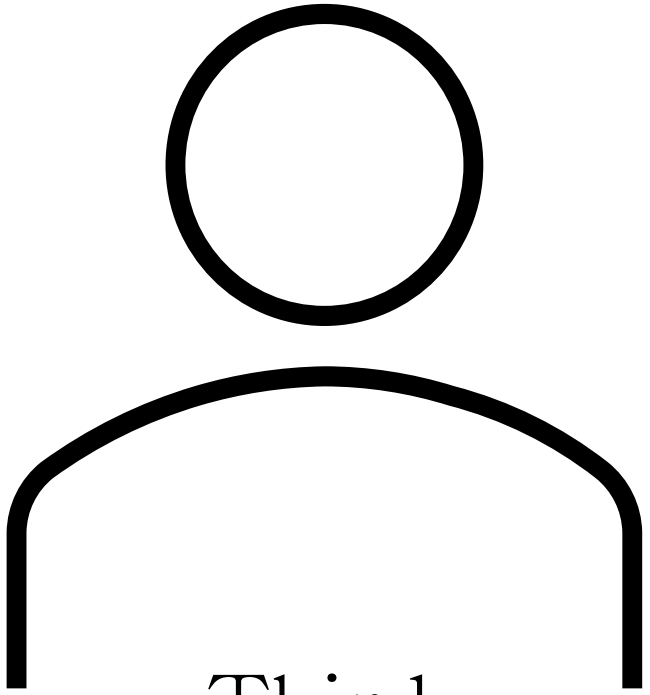
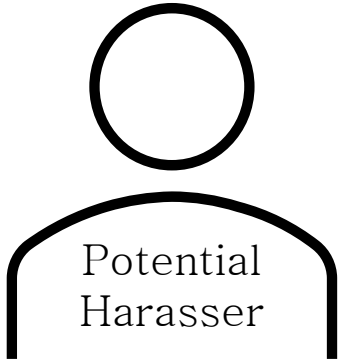


Potential Harasser

Third Party



Protect Yourself

Where is the line?

- Unwanted sexual touching
- Quid pro quo proposals
- Severe or persistent behavior
- Ignoring/ridiculing discomfort
- Retaliation for complaints

- Hugging
- Asking someone out
- Occasional jokes
- Compliments

Finding the Virtual Line

NO PROBLEM

- Virtual morning coffee chats with 3-4 colleagues
- Setting up a regular schedule of virtual check-ins
- Sharing tips with others about what has been successful in the virtual classroom
- Remaking on nice artwork on a home office wall

POTENTIAL PROBLEM

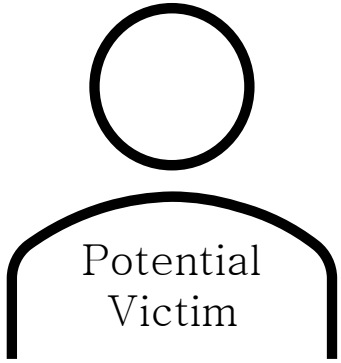
- Suggestive Zoom backgrounds
- “Hot chick of the day” emails
- Allowing a sidebar chat to drift in an off-color direction
- Remarking on a bed or other intimate imagery

When there's a power imbalance...

It's all too easy for flirting to come across as pressure.

And invitations to come across as expectations.

You may think you're offering an option to someone when you're really creating a predicament for them.



Protect Yourself

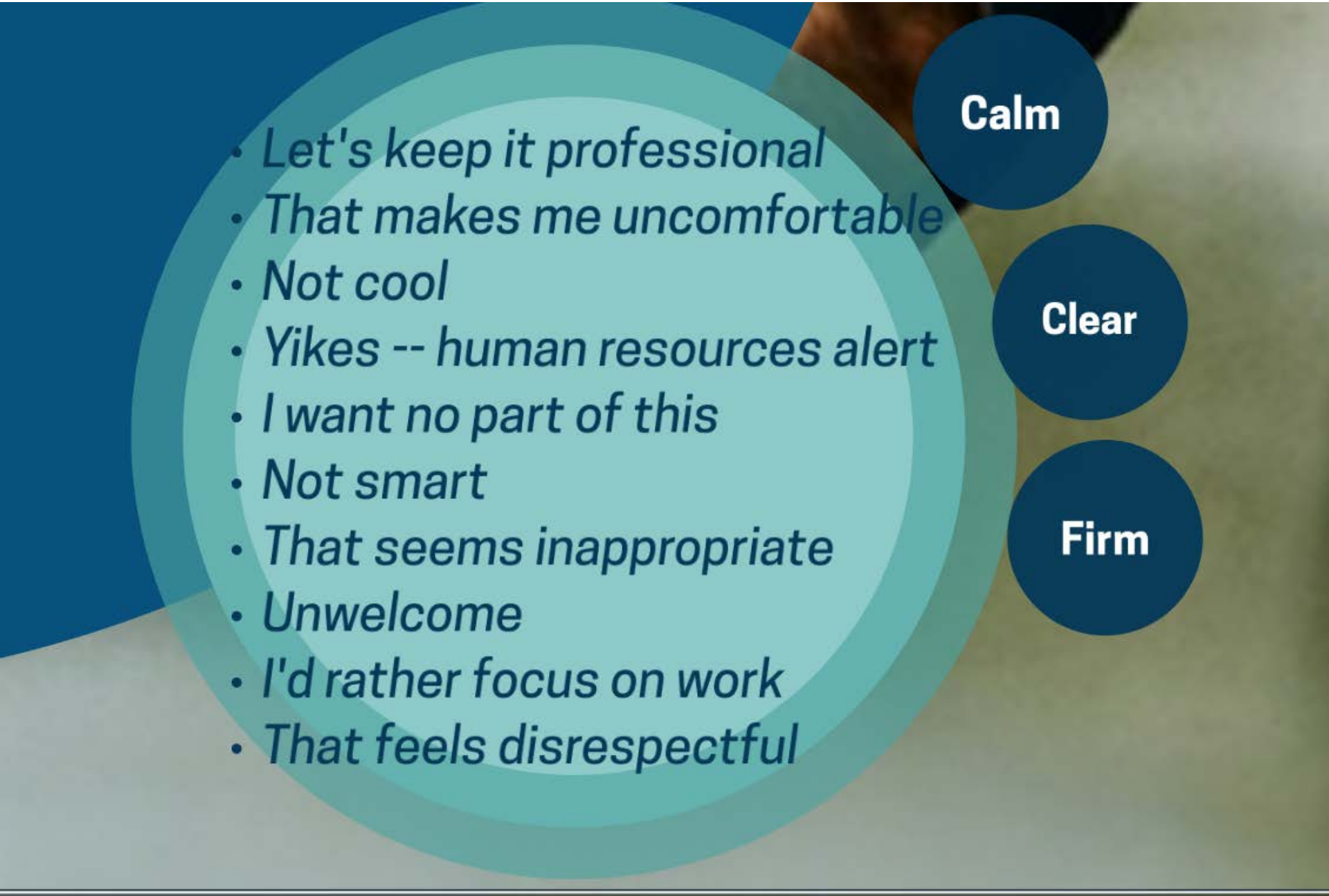
Send clear signals that you aren't interested and can't be pushed around.

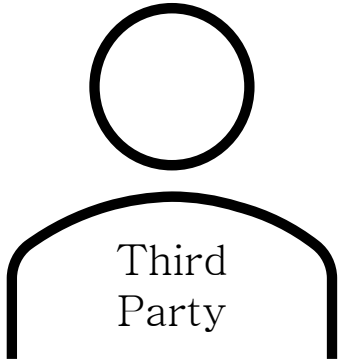
1. Shoot down trial balloons.

2. Prioritize clarity over safeguarding the other person's feelings.

3. Remember that silent discomfort doesn't serve you (or anyone) well.

A System of Mutual Responsibilities


Let's keep it professional
That makes me uncomfortable
Not cool
Yikes -- human resources alert
I want no part of this
Not smart
That seems inappropriate
Unwelcome
I'd rather focus on work
That feels disrespectful
Calm
Clear
Firm



Protect Others

Model professional behavior

Don't tolerate sexual harassment in your sphere of control/influence

Report concerns to HR or to the Title IX Coordinator

Title IX's Purpose

Prohibitions or Limitations on Participation Based on Sex

Unequal Funding of Men's and Women's Athletics

Pregnancy Discrimination

Sexual Harassment
- Sexual Assault
- Stalking
- Domestic/Dating Violence
- Verbal/expressive

The Title IX Coordinator

Report

- Complainant decides whether to proceed
- Supportive measures available regardless

Investigation

- Fair and impartial investigators
- Both parties share their perspective and evidence

Adjudication

- Informal resolution (e.g. mediation) sometimes available
- Formal hearing always available

Your Parker Poe Title IX Team

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Maureen Zyglis

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