Gender Based Misconduct for Employees

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APPLICABLE LAWS AND POLICIES
What is Title IX?

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.”
TITLE IX OF THE
EDUCATION
AMENDMENTS OF 1972
Title IX includes:

- **Sex Discrimination** - the treatment of an individual based on that individual’s gender
- **Sexual Misconduct** - unwanted sexual contact
- **Sexual Harassment** - unwelcomed conduct of a sexual nature
- **Sexual Violence** - including but not limited to sexual assault, sexual abuse, sexual battery, domestic and dating violence, stalking and sexual coercion.
Gender Based Harassment

• Any person of any gender can sexually harass another person of any gender
• Any person of any gender can be sexually harassed by another person of any gender
Title IX provides protection from retaliation

- Anyone can make a discrimination complaint without worrying about retaliation by the university or your supervisor.
- As an employee, you may not retaliate against a co-worker who raises a complaint.
- We all have the right to raise a complaint or report a concern, and this right must be respected by everyone.
NYS Enough is Enough (Article 129-B of the NYS Education Act)
NYS “Enough is Enough” Legislation (Article 129-B)

- Signed into law July 7, 2015
- Uniform definition of “affirmative consent” — “Yes means Yes”
- Good Samaritan/Amnesty Policy
- Student Bill of Rights
- Required option of appeal for both parties- board or panel
- Transcript Notations (1 yr. after return)
- Biennial climate assessment
- State Trooper Education/involvement
- Annual data collection for submission to the state
Affirmative Consent

The Short Story

Is Clear

Is Not Coerced

Is Active

Mutual Agreement

Can be Withdrawn

Incapacitation

The Full Story

Knowing, voluntary, and mutual decision among all participants to engage in the sexual activity. Consent can be given by words or actions, as long as those words or action create clear permission regarding willingness to engage in the sexual activity.

Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

Silence or lack of resistance, in and of itself, does not demonstrate consent.

Even in the context of a relationship, there must be voluntary and mutually understandable communication that clearly indicates a willingness to engage in sexual activity each time.

Consent may be initially given but withdrawn at any time. When consent is withdrawn or can no longer be given, sexual activity must stop.

Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity.
Relevant RIT Policies

• Faculty, Staff, and Visitors:
  – Harassment and Discrimination Policy (C06.0)
  – Honor Code P.03.0

• Students
  – Student Conduct Policy (D18.0)
  – Alcohol and Drug Policy (D18.1)
  – Student Gender-Based and Sexual Misconduct Policy, Title IX (D19.0)
RIT Policy C.6.0

• Prohibiting Discrimination and Harassment
  – This policy applies to Faculty, Students and Guests
  – Any of these individuals can be the complainant or the accused
  – Understanding the laws and policies at RIT will help you:
  – Ensure your own actions and behaviors are aligned with acceptable workplace behaviors
  – Provide accurate and helpful support to those who may experience harassing or discriminating behavior
Harassment Definition at RIT

Harassment means abuse, threats, intimidation, assault, coercion and/or unwelcomed conduct based on that individual’s Gender by any means including but not limited to physical, verbal, or signed communication, written, photographic or electronic means which has the purpose or effect of unreasonably interfering with an employee or student’s work, academic performance or activities, residential life at RIT or participation in RIT sponsored programs or events.
Pervasiveness & Severity

- Note every minor incident (even if offensive) amounts to “harassment”
- Just because it’s lawful doesn’t mean it’s a good idea
- The university may impose discipline or training if conduct was poor judgment or inappropriate even if it was not harassment in the legal sense.
REPORTING INCIDENTS
Who Must Report?

- All “Responsible Employees” are required to report Title IX complaints. Includes all RIT employees (permanent, part-time, student, temporary, and adjunct) except confidential resources.
- Student Leaders must report Title IX complaints.
Confidentiality

• If a person desires complete confidentiality, RIT offers the following resources:
  – The Center for Women and Gender*
  – The Student Health Center
  – Counseling and Psychological Services (CAPS)
  – The Ombuds Office*
  – Center for Religious Life*
  – The NTID Counseling and Academic Advising Services

* services for Faculty, Staff and Students, others are for students only
Confidentiality vs. Privacy

• Even RIT offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and or/seek resolution.

• If an individual discloses information through a public awareness event such as a vigil, protest or other public event RIT is not obligated to begin an investigation based on the information however RIT may use the information provided to inform the efforts for additional education and prevention initiatives.
Title IX Coordinator

- Oversees management of campus reports of sexual harassment, sexual assault, and sexual discrimination
- RIT’s Title IX Coordinator:

Stacy DeRooy
Located in the August Center, room 2188
585-475-7158
Deputy Title IX Coordinators

Amy Stornello  
NTID  
Deputy Coordinator

James Macchiano  
Diversity & Inclusion  
Deputy Coordinator

Natosha McDonald  
Human Resources  
Deputy Coordinator
Anonymous Reporting

• Individuals may use the Ethics & Compliance Hotline to anonymously report violations of Gender Based Misconduct
  – To submit a report go to:
    • https://secure.ethicspoint.com
    • Phone: (866) 294-9358
Reporting Title IX Complaints

Although students can report Title IX complaints to any responsible employee, they are encouraged to report complaints to:

- Title IX Coordinator
- Deputy Coordinators
- RIT Public Safety
- Any staff or faculty member

Complaints can be addressed regardless whether incident occurs on campus or off campus.
What this means for you:

• If anyone discloses an incident to you, you must report it to the Title IX Office
  – What if the person doesn’t want me to?
    • Let them know you are required to report to TIX. If they choose not to participate further they are not going to be made to do anything they do not want to do.
    • You can report by e-mail, phone or via the online report at www.rit.edu/titleix
“I feel like you’re about to tell me something really important, but I want to let you know I have a responsibility to report any Title IX offense. If you’d like, I can put you in touch with a confidential resource.”
What You Can Say

Afterwards as a Responsible Employee

- “Thank you for telling me”
- “It was not your fault”
- “I believe what you’re telling me”
- “I’m so sorry that happened to you”
- “I am required to inform Title IX, but you have the option to be as involved with that process as you want”
Off Campus Incidents

- A student shares that while on Co-op at a local business, their supervisor for the Co-op has engaged the student in sexually explicit conversations.
- You are checking in on a student who used to be in class every session but has recently stopped showing up. The student discloses they were the victim of a sexual assault at their off campus apartment a month ago.
Q&A

Q- A student wrote an essay based on a significant life event. The essay contained a disclosure about an assault. Do I need to report this?
A- No, information disclosed in class as a part of an assignment or project does not have to be disclosed.

• Q- A student who otherwise has been in class and doing well stopped showing up and is now in danger of failing. I reached out to the student and they disclosed they are struggling because of something that has happened to them. Do I need to report?
• A- Yes, let the student know about available resources, provide support and let them know you will be contacting the TIX Office.
ACTIVE BYSTANDER
Common Mistakes or Misconceptions

• “I was just playing around”
• I did this at my last job”
• This is no worse than what is on TV”
• I wouldn’t care if someone said this to me”

• “I’m not going to stop until someone tells me to.”
• “If someone doesn't like it they don’t have to listen.”
• “Are you sure? I know Jo and they wouldn’t do something like that.”
Take action- be an active bystander!

• There are many ways you can help if another person’s actions are making you or someone else uncomfortable!

For example:

• “I’m really not comfortable with you touching my arms and hugging me. I want you to stop doing that.” This is considered a **Direct** strategy.

• “I know you like to laugh but it doesn’t look like Jo is finding your jokes funny”. This is also a **Direct** approach.

• To the manager- “I know that Jo feels badly about a comment Kerry made. I heard what Kerry said but am not sure what to do.” This is a **Delegate** strategy. You are delegating the concern to someone better equipped to handle the situation.
What shouldn’t I do?

• Start your own investigation (talking to others to gather more information)
• Send communications out regarding the complaint to those not involved
• Tell the student or co-worker you don’t believe them
• Discuss with other RIT employees not directly involved in the incident (Outside of the TIX Coordinator(s), HR or Public Safety)
RESOURCES
Campus Resources

- Human Resources
- Center for Women and Gender
- Public Safety
- Compliance and Ethics
- Ombuds Office
External Resources

• **IGNITE** (Formerly Advocacy Services for Abused Deaf Victims/ASADV)
• **Willow Center** (formerly Alternatives for Battered Women)
• NYS Police Hotline 1-844-845-7269
• **RESTORE** (formerly Rape Crisis Center)
• Monroe County Sheriff’s Office (9-1-1)
• **Gender Diversity Guide**
Thank you!