

Gender Based Misconduct for Employees

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January, 2018



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



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

Is Not Coerced



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

Is Active



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

Mutual Agreement



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.

Can be Withdrawn



Consent may be initially given but withdrawn at any time. When consent is withdrawn or can no longer be given, sexual activity must stop.

Incapacitation



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.

The Full Story

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

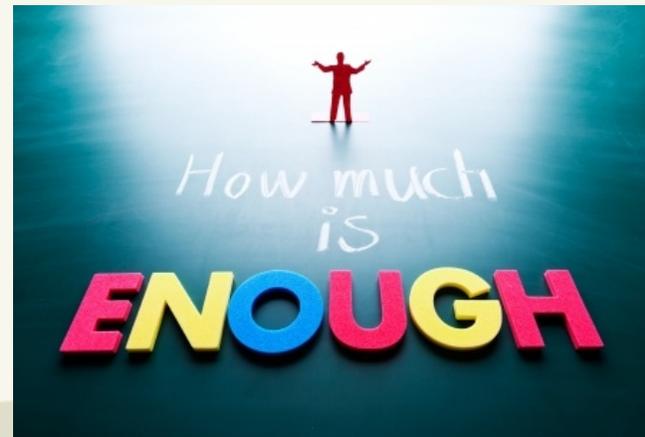
- **Prohibiting Discrimination and Harassment**
 - This policy applies to Faculty, Students and Guests
 - Any of these individuals can be the complainant or the accused
 - Understanding the laws and policies at RIT will help you :
 - Ensure your own actions and behaviors are aligned with acceptable workplace 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

What You Can Say

Beforehand as a
Responsible Employee

“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

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 **D**irect strategy
- “I know you like to laugh but it doesn’t look like Jo is finding your jokes funny”. This is also a **D**irect 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 **D**elegate 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](#)



THE CENTER FOR
WOMEN & GENDER



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](#)

www.rit.edu/titleix

RITTITLEIX



Thank you!

