Title IX

Thirty-seven words that changed everything...

"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
How Title IX Affects the College

- Sexual discrimination, sexual harassment, sexual violence, sexual assault, domestic violence, dating violence, and stalking are prohibited. If the College knows of, or reasonably should know of, any incidents, it is required to take immediate action to **end it, prevent its recurrence, and address its effects.**

- The Title IX Coordinator plays a critical role in helping ensure that all faculty, staff, and students are aware of their legal rights under Title IX, and that the College and all of its employees, through its policies, procedures, and practices, complies with its legal obligations under Title IX.

- The College must attempt to promptly help the victim and eliminate future harm. To assist with their healing and recovery, victims/survivors will be offered a variety of both on- and off-campus resources that are available to them such as medical assistance, counseling, no contact order, order of protection, and more.

- The College will take immediate action regarding any accused individual within its jurisdiction. If the accused is a student and is found responsible, they could be suspended from the College. If the accused is an employee and is found responsible, they could be terminated. And in both cases, they could possibly face criminal charges.

- Title IX policies apply equally to all students, employees, and third parties regardless of sexual orientation, gender identity, or gender expression. All students and employees are required to complete Title IX training (in person and/or online).

- Everyone is **encouraged** to report incidents; supervisors, managers, and administrators **must** report; and of course, anyone who experiences or observes acts of sex discrimination, sexual harassment, or sexual misconduct is invited to make a complaint directly if they choose.
**Title IX Definitions**

**Sex discrimination** is any behaviors and actions that deny or limit a person’s ability to benefit from, and/or fully participate in the educational programs or activities or employment opportunities because of a person’s sex. This includes, but is not limited to, sexual harassment, sexual assault, sexual violence by employees, students, or third parties.

**Sexual violence** is any physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent.

**Sexual harassment in the educational setting** is any unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student denies or limits, on the basis of sex, the student’s ability to participate in or to receive benefits, services, or opportunities in the educational institution’s program.

**Sexual harassment in the employment setting** is any unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature when any of the following occurs:

- Submission to such conduct is made a term or condition of an individual’s continued employment, promotion, or other condition of employment.
- Submission to or rejection of such conduct is used as a basis for employment decisions affecting an employee or job applicant.
- Such conduct is intended to interfere, or results in interference, with an employee’s work performance or creates an intimidating, hostile, or offensive work environment.
More Title IX Definitions...

**Sexual assault** is any physical sexual act or acts committed against a person's will and consent or when a person is incapable of giving active consent, incapable of appraising the nature of the conduct, or incapable of declining participation in, or communicating unwillingness to engage in, a sexual act or acts. Sexual assault is an extreme form of sexual harassment. Sexual assault includes what is commonly known as “rape,” whether forcible or non-forcible, “date rape” and “acquaintance rape.” Nothing contained in this definition shall be construed to limit or conflict with the sex offenses enumerated in Article 130 of the New York State Penal Law, which shall be the guiding reference in determining if alleged conduct is consistent with the definition of sexual assault.

**Dating violence** is any act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the victim’s statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship. This definition does not include acts covered under domestic violence.

**Domestic violence** is any violent felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim, or a person cohabitating with the victim as a spouse or intimate partner.

**Stalking** is intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or cause that person to suffer substantial emotional damage. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimidate, annoy, or alarm him or her.
Affirmative Consent

Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression.

- Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- 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. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and, therefore, unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.
Alcohol/Drug Use Amnesty Policy

The health and safety of every student at the State University of New York and its State-operated and community colleges is of utmost importance. SUNY Potsdam recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incident(s) due to fear of potential consequences for their own conduct. SUNY Potsdam strongly encourages students to report incidents of sexual and/or interpersonal violence to campus officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident(s) of sexual and/or interpersonal to campus officials or law enforcement will not be subject to SUNY Potsdam's Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the incident(s).
Students’ Bill of Rights

The State University of New York and SUNY Potsdam are committed to providing options, support and assistance to victims/survivors of sexual violence/assault. Pursuant to the Violence Against Women Act, these rights are also extended to victims of domestic violence, dating violence, and stalking. The purpose of these actions is to ensure that victims can continue to participate in College/University-wide and campus programs, activities, and employment.

All victims of these crimes regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction have the following rights, regardless of whether the crime occurs on campus, off campus, or while studying abroad.

All students have the right to:

• Make a report to local law enforcement and/or state police;
• Have disclosures of domestic violence, dating violence, stalking, and sexual assault taken seriously;
• Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressures from the institution;
• Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard
• Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
• Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
• Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident.
All students have the right to:

- Be free from retaliation by the institution, the accused, and/or the respondent, and/or their friends, family, and acquaintances within the jurisdiction of the institution;
- Access to at least one level of appeal of a determination;
- Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College;

Victims/survivors have many options that can be pursued simultaneously, including one or more of the following:

- Receive resources, such as counseling and medical attention;
- Confidentially or anonymously disclose a crime or violation
Reporting Options, Services, & Support

SUNY Potsdam wants victim/survivors to get the information and support that they need regardless of whether they would like to move forward with filing a complaint of sexual misconduct to campus officials or to police. A person may want to talk with someone about something they have observed or experienced, even if they are not sure that the behavior constitutes sexual misconduct. A conversation where questions can be answered is far superior to keeping something to one’s self. Confidentiality varies, as such it is important for victims/survivors to be aware of who they can speak with in confidence and which members of our community are required to report disclosures of sexual misconduct.

**Confidential Resources:**
- Counseling Center
- Student Health Services
- Campus Ministry
- Renewal House On-Campus Advocate (off-campus location as well)
- Employee Assistance Program

**Non-Confidential Resources:**
- Title IX Coordinator
- Deputy Title IX Coordinator
- University Police
- Human Resources (if accused is an employee)
- NYS Police Campus Sexual Assault 24-Hr. Hotline 1-844-845-7269
- Other Local Law Enforcement

**Victims/survivors have the right to pursue more than one of the options above at the same time, or they may choose not to participate in any of the options above.**

For a complete list, please see our Title IX Brochure, the College’s Title IX webpage, or SUNY’s Sexual Assault & Violence Response Resources webpage.
Sexual violence is a serious problem that can have lasting, harmful effects on victims and their family, friends, and communities. The goal of sexual violence prevention is simple—to stop it from happening in the first place. Prevention efforts by potential victims, perpetrators, and bystanders ultimately decrease the number of individuals who perpetrate sexual violence and the number of individuals who are victims:

- Remember all of the components of Affirmative Consent!
- Take care of yourself as well as others. Keep an eye out for your friends. Share with them what you’ve learned about prevention and awareness.
- Drink responsibly. Know your limits. Avoid binge drinking. Drinking increases aggression, decreases comprehension, and decreases inhibition. It increases the likelihood of nonconsensual sex or rape due to the inability to interpret another person’s sexual interest accurately.
- Watch your drinks. Take your drink to the restroom with you. Never drink a beverage that has been given to you by someone else or taken from a communal alcohol source (like a punch bowl).
- Avoid drug use. Like alcohol, drug use can lead to an ability to interpret another person’s sexual interest accurately and can lead to increased aggressive behavior.
- Speak up and step in safely if the actions or words of a friend, teammate, or Greek brother or sister are harmful.
- Determine what you want and what you don’t want, and communicate your limits clearly. No one should pressure you into unwanted sexual activity. If you are uncertain about what you want, ask your partner to respect your feelings. You have the right and power to say "No" and the right and power to defend yourself against someone who won’t listen to you. If you say "No," say it firmly and directly.
- Trust your gut. If you get a bad feeling about a location or a person, leave immediately. We often subconsciously process body language and other danger indicators without realizing it. If something feels very wrong or you feel pursued, head in the direction of the nearest crowd, lighted area, or building. Start talking loudly on your phone. Many attackers are unwilling to pursue victims who are aggressive or loud, which draws attention to the crime.
- Stick with your friends. Attend social gatherings with a group of friends that you trust. Look out for each other and help each other arrive home safely. Try to leave with a group, rather than alone or with someone you don’t know very well. If you do go out alone, always tell someone where you are going and avoid walking in unlit or low traffic areas.
- Look for danger signals in a dating relationship such as if your partner restricts your activities, isolates you from friends, and/or displays jealous behavior, etc.
Bystander Intervention

In many circumstances, bystander intervention can be a safe and effective prevention method. In deciding whether to intervene in a situation potentially involving harassment or violence, take these steps:

• Notice the event and evaluate the risk
• Determine whether the situation demands your action
• Assume personal responsibility by making the situation your problem
• Choose what form of assistance to use
• Understand how to implement the choice safely

If a situation does not look or feel right, step in and say something. It is always better to intervene before an incident occurs than to regret not doing so later.

Bystander intervention techniques that may be safe and appropriate, depending on the circumstances:

• Dissuade a person from getting into a car or going off alone with a person who is impaired, drunk, belligerent, or too forward in his or her physical contact.
• If you witness one person being persistently aggressive toward another, remain with the potential victim until the aggressor has left or the potential victim is in a safe place. Never leave someone alone in a dangerous situation.
• If someone appears uncomfortable in a situation, try to get her or him out of it by inviting her or him away to another location.
• If you see someone in a vulnerable position, find a non-threatening way to help. Get involved if you believe someone is at risk.
For More Title IX Information:

Contact:

Title IX Coordinator Stacey Basford, VanHousen Hall 392, basforsl@potsdam.edu, 315-267-2516

Visit:

http://www.potsdam.edu/offices/hr/titleix/

Review:

Blue Title IX Brochure in Orientation Packets

SUNY-wide Discrimination Complaint Procedure:

http://www.suny.edu/sunypp/documents.cfm?doc_id=451