Title IX & Sexual Harassment Training

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What is Title IX?

A federal law that requires all colleges/schools who receive federal funding to **end sexual discrimination, prevent its recurrence**, and **address its effects**. Includes:

- sexual harassment
- sexual assault, sexual coercion, and/or sexual exploitation
- domestic violence
- dating violence
- stalking

Definitions are in TIX brochure, on TIX webpages, and/or in our new Sexual Harassment Response & Prevention Policy. **Prohibited on all SUNY campuses, including ours.** We must take **immediate** action to **all** reports. Policies apply equally to **all** students, employees, and third parties, regardless of sexual orientation, gender identity, or gender expression.
Anyone can be a victim, survivor, complainant, and/or reporting individual. Anyone can be a respondent and/or accused person. This means ANY employee, ANY student, or ANY third party (visitors, vendors, contractors, etc.).

SUNY Discrimination & Sexual Harassment Complaint Procedure provides more details and important information.

SUNY Potsdam Sexual Harassment Response & Prevention Policy prohibits sexual harassment and unequal treatment on the basis of sex or gender. Everyone is responsible for reading the policy, understanding it, and complying with it.

Both the Complaint Procedure and the Sexual Harassment Policy links can be found on the back of your TIX brochure and/or on the SUNY Potsdam TIX webpages.
What is Sexual Harassment?

Sexual harassment is a form of workplace discrimination and employee misconduct, as well as a form of discrimination in the academic setting. It includes all forms such as verbal, physical, electronic, etc.

It is unlawful, and **all** employees, students, and third parties have the legal right to a workplace and a campus free from sexual harassment.
Hostile Environment Sexual Harassment & Conduct to Avoid

• Propositioning/pressuring someone for sexual favors or making repeated requests for a date with someone who is not interested
• Spreading rumors about someone’s sexuality or their sexual activity, performance, or experience
• Using sexual gestures or noises or touching oneself sexually in front of others
• Telling suggestive, insulting, or obscene jokes/comments of a sexual nature or discussing sexual thoughts, fantasies, or activities
• Massaging/touching someone on any part of their body (includes pinching, patting, grabbing, kissing, hugging, brushing against, or poking)
Hostile Environment Sexual Harassment & Conduct to Avoid (Continued)

- Displaying sexually-explicit, sexually demeaning, or pornographic pictures, magazines, posters, calendars, graffiti, objects, promotional or reading material, etc. OR sexual displays on workplace computers or cell phones and sharing such displays in the workplace or classroom
- Leering, making catcalls, or sexual gestures at someone
- Posting sexual material on Facebook, Twitter, Snapchat, or other social media or sending inappropriate sexual emails or instant messages
- Interfering with, destroying, or damaging a person’s workstation, tools, or equipment, or otherwise interfering with the individual’s ability to perform the job.
Quid Pro Quo Sexual Harassment

When a person in authority trades, or tries to trade, job or educational benefits for sexual activity. This can occur when someone has the ability to grant or withhold job/educational benefits, including offering better conditions in exchange for sex or threatening a denial of opportunity if sex is refused. It may include unwanted sexual favors accompanied by implied or overt threats concerning an individual’s job benefits/detriments or educational benefits/detriments. It may include subtle or obvious pressure for unwelcome sexual activities. Examples:

- Threatening a negative performance evaluation
- Threatening denial of or promising a promotion
- Threatening to assign an undesirable practice or schedule
- Threatening to transfer an employee to another department
- Threatening to transfer or drop a student from a class, team, or program
- Threatening a poor grade
Other Forms of Sexual Harassment

**Sex stereotyping** is also sexual harassment (harassing a person because they may not conform to other people’s ideas or perceptions of how individuals of a certain sex should act or look).

Harassing a person because they are performing a job that is usually or was previously performed mostly by persons of a different gender is **gender discrimination**.
As an employee, one of your primary responsibilities is to **set the right tone with your own behavior** and to **avoid conduct that may lead to liability for the College**.

- Serve as a role model for faculty, staff, and students.
- Be sensitive to the potential effects of your power disparity between you and your students OR you and your staff.
- Behave appropriately and professionally whenever and wherever you fulfill your work responsibilities. This includes both on and off campus: employer-sponsored events such as conferences, office parties, outings, college trips, away games, and college-related social activities. It could also possibly occur in a non-work scenario and during non-work hours.
- Keep in mind that when it comes to sexual misconduct, your actions, and how your actions are perceived, matter more than your intentions.
Reporting Options

Confidential & Anonymous Reporting:
- Counseling Center
- Student Health Services
- Renewal House On-Campus Advocate (off-campus location as well)
- Employee Assistance Program
- Anonymous Reporting:
  http://www.potsdam.edu/studentlife/safety/incidentreporting/witnessform.cfm

Non-Confidential Reporting But With Privacy:
- Title IX Coordinator
- University Police
- Human Resources (if accused is an employee)
- Faculty/staff
- NYS Police Campus Sexual Assault Victims Unit
  24-Hr. Hotline 1-844-845-7269
- Other Local Law Enforcement
Employee Reporting

- If you are harassed, if you witness someone else being harassed, or if you hear about an incident, report it to your supervisor, the Title IX Coordinator, Human Resources, or University Police immediately. Best Practice: Directly to the TIXC.
- For reporting purposes, SUNY Legal Counsel defines a “responsible employee” as any employee who has the authority to take action or to redress sexual discrimination, who has been given the duty of reporting incidents, or whom a student could reasonably believe has this authority or duty…which SUNY Legal feels is EVERY employee.
- It is not your role to evaluate whether behavior meets legal definition of sexual harassment. If you feel a behavior may be inappropriate, report it immediately. Don’t worry about whether it meets legal definition or not. Don’t wait or analyze situation, just report the behavior, and let college evaluate and determine if it meets legal definition.
Supervisors

• Held to a higher standard
• REQUIRED to report harassment that is reported to them, which they observe, or which they reasonably should have known about.
• Subject to discipline for failing to report suspected harassment or for knowingly allowing sexual harassment to continue
• Subject to discipline for engaging in retaliation
Retaliation

• Any adverse action because an individual engaged in protected activities such as filing a complaint, serving as a witness, providing information as a witness, reporting an incident, etc.
• Prohibited against any participant in the reporting and/or investigation process.
• Adverse actions may include: harassment, bullying, quid pro quo sexual harassment, and hostile environment harassment.
• Employees are protected from retaliation.
• Failure to report retaliation may result in discipline.
Why is Reporting So Important?

• To ensure victim/survivor gets the help, resources, and services that they need AND so they can learn what options are available to them such as filing an official Title IX complaint and having an investigation done, filing criminal charges, etc. Reporting an incident doesn’t automatically mean that a complaint is filed or that an investigation will occur. Victim/survivor is in full control of what happens next (if anything at all), except if there is a previous report on the accused, if multiple reports are currently being received on the accused, or if the accused is deemed as a threat to the campus community.

• Patterns of inappropriate behavior can be tracked
• Prevent it from happening to others
• Possibly removes you from the scenario and liability, because you have done as you should do and reported the incident
Victim/Survivor Resources, Services, Options

- Filing complaint internally or externally (EEOC, DHR, OCR)
- Medical assistance
- Counseling and advocacy services
- Assistance with SANE/forensic exam and preserving evidence
- Title IX Complaint/Investigation
- Criminal Charges
- Order of Protection or No Contact Order
- Renewal House (On-Campus Advocate Julia, VanHousen Ext. 390 on Wednesdays from 9 to 5)
- Safety Escort
- Confidential Online Directory Information
- Safe Housing and/or Room Change
- Class Schedule Changes
- Academic Support Services (tutoring, contacting the Student Success Ctr. and/or instructors on their behalf)
- Job Assignment Relocation
- SUNY Sexual Assault & Violence Response
Other Types of Discrimination & Harassment – Affirmative Action

- Harassment or discrimination based on a protected characteristic is also prohibited on campus and may lead to disciplinary action against the accused.
- Protected characteristics include: age, race, color, creed, national origin, disability, marital status, etc. Please refer to the College’s full Non-Discrimination Notice on the Title IX and Affirmative Action webpages.
- Reasonable Accommodations are now handled through Human Resources.
New NYS Legislation: Change to NYS Human Rights Law

- Currently, law states it must be severe or pervasive harassment, which will no longer be the case. Employers liable for ANY conduct that subjects an individual to inferior terms, conditions, or privileges of employment. Only “petty slights or trivial inconveniences” will be legally tolerable under new standard.
- Allows the award of attorney's fees to successful complainants
- Extends statute of limitation for filing sexual harassment complaints with Division of Human Rights from one year to three
- Removes an important defense based on a complainant’s failure to utilize College’s internal complaint process.
- Allows employees of contractors/affiliates (RF, foundations, auxiliary services corps., etc.) to bring complaints against SUNY, even when SUNY itself did not directly engage in the conduct.
- The specific SUNY campus will now be held responsible; Damages awarded will come from their budget.
New NYS Legislation: Change to NYS Human Rights Law (Continued)

- It is imperative that employees follow strict policing of inappropriate or discriminatory workplace behavior to manage the risk to our campus.
- Every employee needs to know what constitutes discrimination and harassment.
- Everyone must be equipped to hold a hard line against any of this conduct.
New NYS Legislation: Law Banning Unlawful Dissemination/Publication of Intimate Image

- Class A Misdemeanor - Also referred to as “Revenge Porn”
- Taking and sharing photos and/or videos has become easier and less expensive, making this conduct very common
- Devastating impact on those exposed in this manner
- **Disseminate** – to give, provide, lend, deliver, mail, send, forward, transfer, or transmit image(s) electronically or otherwise to another person
- **Publish** – to disseminate w/intent that such image(s) be disseminated to 10+ persons; OR disseminate w/intent that image(s) be sold by another person; OR to post, present, display, exhibit, circulate, advertise, or allow access electronically or otherwise so as to make image(s) available to public; OR to disseminate w/intent that image(s) be posted, presented, displayed, exhibited, circulated, advertised, or made accessible electronically or otherwise and to make image(s) available to public
Any Questions?

Anyone that is not a UUP member may depart now.

UUP Members: Please stay for a brief update on mandatory reporting.
New UUP Agreement – Mandatory Reporters

- All members serving in academic rank or qualified academic rank (faculty, adjunct faculty, librarians, etc.)
- All professional employees in: academic advisement, career services, continuing education, financial aid, instructional support, athletics, residence life, student activities, student affairs, campus life
Triggers for Reporting

• Witnessing a Title IX violation or Clery Act crime
• Learning of a violation or crime

Report As Soon As Possible.
Covered Clery Act Crimes

- Criminal Homicide (murder, non-negligent manslaughter, and manslaughter by negligence)
- Sexual Assault (rape, fondling, incest, and statutory rape)
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson
- Hate Crimes

While colleges need only report crimes that occur in the four specific geographic areas (on-campus, residence halls, non-campus, and public property), the best practice is to forward the report of any such crimes to University Police or Title IX. Let them determine what course of action is appropriate. Geographic location map can be found in our Annual Clery Report on UP’s website.
What Must Be Reported?

• Don’t fish for information from victim/survivor. Only report the information that they want to share with you. Don’t make them go into detail as it is traumatic for them. They relive the incident(s) every time they tell someone about it.
• Most important detail is the name of the victim/survivor.
• Accused person’s name and any witnesses
• Date, time, and location of incident(s)
• Any factual allegations known about the incident(s)
Confidentiality vs. Privacy

• Only UUP members with a legal privilege and who maintain that privilege in their specific role can maintain true “confidentiality.”
• All other UUP members may offer “privacy,” but may not promise confidentiality to reporting individuals.
• When communicating with a reporting individual, UUP members who ordinarily have a legal privilege (i.e. attorney-client privilege) may be unable to maintain that privilege when acting in their official university role.
Any Questions?