

Policy on Sexual Misconduct

Policy Title	Policy on Sexual Misconduct
Policy #	01.001.1
Policy Owner	University of Rhode Island Board of Trustees
Contact Information	Questions about this policy should be directed to the Assistant Vice President for Enterprise Risk Management (401) 874-5593
Approved By	University of Rhode Island Board of Trustees
Effective Date	August 14, 2020
Next Review Date	December 31, 2020
Who Needs to Know About this Policy	All faculty, staff, students, and Affiliates of the University as well as University contractors with a presence on University Property.
Definitions	<p>Complainant. An individual who is alleged to be the victim of conduct that could constitute Sexual Misconduct.</p> <p>Respondent. An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Misconduct.</p> <p>Sexual Misconduct. An umbrella term covering any unwelcome behavior or attempted behavior of a sexual nature that is enacted on another person without that person's consent.</p> <p>University Affiliate. Any individual who is not a faculty member, staff, or student who otherwise has a formal relationship with the University, including but not limited to visiting scholars, visiting students, postdoctoral or other research fellows, professional program participants, adjunct teaching or clinical personnel, volunteers, employees and associates of the URI Foundation and Alumni Engagement, and members of the University of Rhode Island Board of Trustees. Vendors and contractors are not considered affiliates.</p> <p>University Property. Property belonging to the State of Rhode Island and held in trust by the University of Rhode Island Board of Trustees; property held by the University or any of its component units in its own name; and property owned by third parties but assigned to, occupied by, or managed by the University or any of its component units.</p> <p>University-Related Activity. Any activity undertaken by University faculty, staff or students, by recognized student groups, or by contractors or agents of the University on behalf of the University, which relate in whole or in part to any academic, research, public service, administrative, or other function or purpose performed under the auspices of the University, or in pursuance of University employment-related obligations, University academic or curricular programs, or recognized University extracurricular activities.</p>

<p>Statutes, Regulations, and Policies Governing or Necessitating This Policy</p>	<p>20 USC § 1681 <i>et seq.</i> (Title IX of the Education Amendments of 1972 [“Title IX”]) and its implementing regulations at 34 C.F.R. Part 106</p> <p>42 USC § 2000e <i>et seq.</i> (Title VII of the Civil Rights Act of 1964 [“Title VII”])</p> <p>20 USC §1092(f) (Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990 [the “Clery Act”]) and its implementing regulations at 34 CFR 668.46</p> <p>34 USC §12291 <i>et seq.</i> (Violence Against Women Reauthorization Act of 2013 [“VAWA”])</p> <p>Rhode Island General Law § 28-5-7 (Rhode Island Fair Employment Practices Act)</p> <p>Rhode Island General Laws §§ 11-37 (Sexual Assault); 11-59 (Stalking); 12-29 (Domestic Violence Prevention Act); 16-21-30 (Dating Violence Policy)</p> <p>University of Rhode Island Student Handbook</p> <p>University Manual</p>
<p>Reason for Policy/Purpose</p>	<p>To eliminate, prevent, and address conduct that constitutes Sexual Misconduct at the University. This policy describes the prohibited conduct, sets standards by which the University will manage allegations regarding Sexual Misconduct, and defines roles and responsibilities for all parties involved.</p>
<p>Forms Related to this Policy</p>	<p>Sexual Misconduct Reporting Form https://web.uri.edu/titleix/report/</p>

Policy Statement

I. GENERAL

The University of Rhode Island is committed to maintaining an environment free from discrimination. Consistent with that commitment, the University prohibits all forms of discrimination in all University programs and activities. The University has implemented this policy specifically to address Sexual Misconduct, which is one form of sex-based discrimination. This policy is intended to: (1) describe the types of conduct that will be considered to be prohibited Sexual Misconduct; (2) set forth the reporting obligations pertaining to Sexual Misconduct; and (3) identify University personnel and resources available to individuals who experience, witness, or discover acts of Sexual Misconduct.

Sexual Misconduct corrupts the integrity of the educational process and is contrary to the mission and values of the University. It will not be tolerated. All students; faculty; staff; administrators; Affiliates; visitors to campus; guests on campus; and the agents, representatives, and employees of vendors, suppliers, and contractors are strictly prohibited from engaging in Sexual Misconduct. The University will investigate all allegations of Sexual Misconduct and take immediate responsive action.

The Assistant Vice President for Enterprise Risk Management and Title IX Coordinator, in close consultation with relevant campus stakeholders, is responsible for developing, publishing, and revising from time to time the Procedures needed to implement this policy in compliance with applicable law. Reporting, investigation, and resolution procedures are set forth in the Procedures accompanying this policy.

In addressing allegations of Sexual Misconduct, the University complies with Title IX, which prohibits discrimination on the basis of sex in education programs and activities; Title VII, which prohibits discrimination, including discrimination on the basis of sex, in employment; VAWA; the Clery Act; and applicable state laws, including the Rhode Island Fair Employment Practices Act and the Rhode Island Civil Rights Act of 1990.

This policy applies regardless of the Complainant’s or Respondent’s sex, gender identity or expression, sexual

orientation, marital status, age, race, ethnicity, national origin, religion, disability status, veteran status, immigration status, or citizenship status.

II. DEFINITIONS AND SCOPE OF SEXUAL MISCONDUCT

Sexual Misconduct is any unwelcome behavior or attempted behavior of a sexual nature that is enacted on another person without that person's consent. Sexual Misconduct need not be intentional. The intent of the person who is alleged to have committed such behavior may not be relevant to determining whether a violation has occurred. The University will evaluate the totality of circumstances from the perspective of a reasonable person in the Complainant's position.

Sexual Misconduct can arise from many different types of unwelcome verbal, nonverbal, physical, and online conduct ranging from sexual gestures or teasing to sexual assault, sexual violence, domestic and dating violence, stalking, and other coercive activity. Examples of such conduct and behaviors that may lead to a finding of Sexual Misconduct include, but are not limited to, the following:

- Verbal: Sexual remarks, comments, jokes and innuendos, communicating unwelcome stories about someone's social or sexual life, and propositions or pressure for social or sexual contact.
- Non-verbal: The display of sexually explicit stares, gestures, or suggestive pictures, including secretly video recording sexual acts or objects.
- Physical: Unwanted touching, patting, grabbing, or pinching, including sexual assault, domestic violence, dating violence, stalking, and rape.
- Online: Sexual voyeurism, unwanted sexual exposure, distribution of recordings without consent, or cyberstalking via email, text, social media, or any other online/digital platform or service.

This policy applies to all such conduct occurring on University Property; at a University-Related Activity; or that otherwise relates to or could impact upon any aspect of the University's educational programs and activities, including, but not limited to, employment, admissions, academics, athletics, and student services.

Sexual Misconduct includes, but is not limited to: (A) "Sexual Harassment" as that term is defined under Title IX; (B) "Sexual Harassment" as that term is defined under Title VII; (C) "Sexual Exploitation"; (D) "Sexual Violence"; (E) "Dating Violence"; (F) "Domestic Violence"; and (G) "Stalking."

A. SEXUAL HARASSMENT UNDER TITLE IX

Sexual Harassment under Title IX means conduct on the basis of sex, occurring within the United States, which satisfies one or more of the following categories:

- (1) An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or
- (3) "Sexual assault" as defined in the Clery Act, "dating violence" as defined in VAWA, "domestic violence" as defined in VAWA, or "stalking" as defined in VAWA.

In order to trigger the requirements of Title IX, the Complainant must be participating in or attempting to participate in an education program or activity of the University at the time a formal complaint (as that term is defined in the Title IX implementing regulations and as set forth in the Procedures accompanying this policy) is filed.

B. SEXUAL HARASSMENT UNDER TITLE VII

Sexual harassment under Title VII is defined as unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

In determining whether a hostile environment exists, the University will consider the totality of circumstances, including factors such as the actual impact the conduct has had on the Complainant; the nature and severity of the conduct at issue; the frequency and duration of the conduct; the relationship between the parties (including accounting for whether one individual has power or authority over the other); the respective ages of the parties; the context in which the conduct occurred; and the number of persons affected. A person's adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment.

C. SEXUAL EXPLOITATION

Sexual exploitation is a type of Sexual Misconduct that means purposefully taking sexual advantage of another person for the benefit of oneself or a third party when consent is not present. This includes, but is not limited to, the following actions (including when they are done via electronic means, methods, or devices):

- Sexual voyeurism or permitting others to witness or observe the sexual or intimate activity of another person without that person's consent;
- Indecent or lewd exposure or inducing others to expose themselves when consent is not present;
- Recording any person engaged in sexual or intimate activity in a private space without that person's consent;
- Distributing personal sexual information, images, or recordings about another person without that person's consent (applies even if the videos were originally obtained with consent);
- Recruiting, harboring, transporting, providing, or obtaining another person for the purpose of sexual exploitation;
- Inducing incapacitation in another person with the intent to engage in sexual conduct, regardless of whether prohibited sexual conduct actually occurs;
- Prostituting another person; or
- Knowingly transmitting a sexually transmitted disease to another person through sexual activity when that person has not consented to engage in such sexual activity.

D. SEXUAL VIOLENCE

Sexual violence includes sexual assault, sexual battery, sexual coercion, and rape. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent because of their temporary or permanent mental or physical incapacity, because they are below the minimum age of consent in the applicable jurisdiction, or because of their incapacitation due to the use of drugs and/or alcohol. A single instance of sexual violence may be sufficiently severe to deny or limit a person's ability to participate in or benefit from the University's programs or activities, and, therefore, constitute Sexual Misconduct.

Verbal misconduct or any misconduct not involving unwanted sexual touching does not constitute sexual violence under this policy, but may constitute another form of Sexual Misconduct.

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Sexual violence includes:

- Sexual assault: sexually penetrating, attempting to sexually penetrate, or having sexual contact with another individual by force or threat of force; without consent; or where the individual is incapacitated.
- Sexual battery: non-consensual touching (clothed or unclothed) of the intimate body parts of another person in a sexual manner.
- Rape: penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ, without consent.
- Intentional contact of a sexual nature with the body parts of another, causing another to touch one's intimate parts, or disrobing or exposure of another without consent.

E. DOMESTIC VIOLENCE

Domestic violence includes acts of violence committed by a current or former spouse or intimate partner of a victim, by a person with whom the victim shares a child in common, by a person who is residing with or has resided with the victim as a spouse or intimate partner in the prior three (3) years, by a person similarly situated to a spouse or the victim under Rhode Island law, or by any other person against an adult or youth victim who is protected from that person's acts under Rhode Island law.

F. DATING VIOLENCE

Dating violence means violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- Length of the relationship;
- The type of the relationship; and
- The frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, behavior where one person uses threats of, or actually uses, physical, sexual, verbal, or emotional abuse to control their dating partner.

G. STALKING

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

For the purposes of this definition, "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means (including social media) follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property.

"Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.

"Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking includes cyberstalking, which is a form of stalking occurring in electronic media such as the Internet, social networks, blogs, cell phones, texts, or emails that are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Examples of stalking include: unwelcome and repeated visual or physical proximity to a person; repeated oral or written threats; unwelcomed/unsolicited written communications, including letters, cards, texts, emails, instant messages, or messages on social media or message bulletin boards.

H. CONSENT

Consent is a mutual, voluntary, and informed agreement to participate in specific sexual acts with another person that is not achieved through manipulation, force, or coercion of any kind and that requires having cognitive ability

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to agree to participate. Consent requires an outward demonstration, through mutually understandable words, conduct, or action, indicating that an individual has freely chosen to engage in the specific sexual acts. A verbal “no” constitutes lack of consent, even if it sounds insincere or indecisive.

Impairment or incapacitation due to alcohol and/or drug use, permanent/temporary psychological or physical disability, and being below the age of consent (age sixteen [16] in Rhode Island) are factors that detract from or make consent impossible.

Silence or an absence of resistance does not imply consent, and consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Even in the context of an ongoing relationship, consent must be sought and freely given for each specific sexual act. Consent may be withdrawn at any time. When consent is withdrawn, sexual activity must immediately stop.

- “Force” is the use or threat of physical violence or intimidation to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity. There is no requirement that a party resists the sexual advance or request, but resistance will be viewed as a clear demonstration of non-consent.
- “Coercion” is the use of pressure to compel another individual to initiate or continue sexual activity against an individual’s will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person’s words or conduct are sufficient to constitute coercion if they wrongfully impair another individual’s freedom of will and ability to choose whether or not to engage in sexual activity.
- “Incapacitation” means the person is incapable of giving consent. A person is incapacitated if they are in a physical or mental state that makes them unable to make a knowing and voluntary choice to engage in the specific sexual acts. A person may become incapacitated due to many factors, including the use of alcohol and/or drugs, or when the person is asleep or unconscious, or due to intellectual or other disability. When determining incapacitation, the inquiry is whether a sober, reasonable person should have known that the person was incapacitated and could not provide consent. One’s own intoxication is not an excuse for failure to recognize another person’s incapacitation.

Sexual contact while under the influence of alcohol or other drugs poses a risk to all parties. Alcohol and drugs impair a person’s decision-making capacity, awareness of the consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person’s level of intoxication. If there is any doubt as to the level or extent of the other person’s intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

No single factor is determinative of incapacitation. Some common signs that someone is incapacitated may include: slurred speech, confusion, bloodshot eyes, the smell of alcohol on breath, unsteadiness when walking, vomiting, unusual behavior, etc.

III. TITLE IX STATEMENT AND COORDINATORS

It is the policy of the University to comply with Title IX of the Education Amendments of 1972 and its implementing regulations, which prohibit discrimination based on sex in the University’s educational programs and activities, including employment and admissions.

The Title IX Coordinator and Deputy Title IX Coordinators are responsible for the oversight and implementation of this policy. The contact information for the Title IX Coordinator is:

Address: Room 114 Carlotti Administration Building, 75 Lower College Road, Kingston, RI 02881
Phone Number: 401-874-5593
Email: tixc@etal.uri.edu

IV. REPORTING ALLEGATIONS OF SEXUAL MISCONDUCT

All reports of Sexual Misconduct must be submitted to one of the following individuals:

- The Assistant Vice President for Enterprise Risk Management, who is the University's Title IX Coordinator. The Title IX Coordinator is the University official charged with coordinating compliance with Title IX and its implementing regulations.
- A designated Deputy Title IX Coordinator in the Office of the President; the Division of Student Affairs; the Division of Academic Affairs; the Division of Administration and Finance; or the Division of Research and Economic Development.
- An Official with Authority, who is a University officer who has authority to institute corrective measures, specifically: the President, the Provost, Vice Presidents, Deans, and the Assistant Vice President of Human Resource Administration.

Specific information regarding reporting procedures can be found in the Procedures accompanying this policy.

The University encourages victims to report Sexual Misconduct immediately. However, the University realizes that victims may desire to maintain confidentiality. A victim who wishes to talk confidentially about their situation may contact the confidential resources identified in the Procedures accompanying this policy. Additionally, victims of sexual offenses may also seek help from off-campus organizations that have trained professionals able to provide assistance to victims of sexual violence. These organizations are not associated with the University and therefore disclosure will not trigger a University investigation into the incident.

Unless designated as a confidential resource, the University encourages all members of the University community to report any and all instances of possible Sexual Misconduct, even if they are unsure whether the conduct rises to the level of a violation of this policy.

It is a violation of this policy to retaliate against any member of the University community who reports or assists in making a report of Sexual Misconduct or who participates in the investigation of a report in any way. Persons who believe they have experienced retaliation in violation of this policy should make a report in the manner set forth above in this section.

V. APPLICABLE PROCEDURES UNDER THIS POLICY

The University will investigate all reports of Sexual Misconduct. Upon receipt of a report of Sexual Misconduct, the Title IX Coordinator will review the allegations and determine the applicable procedures, which will depend upon: (1) the status of the Complainant; (2) the status of the Respondent; (3) the location of the alleged conduct; and (4) the nature of the allegations.

- Formal complaints of Sexual Harassment that meet the applicable definitions under Title IX, as set forth in the Procedures accompanying this policy, will follow the process prescribed by the Title IX regulations published on May 19, 2020 by the US Department of Education and set forth in the Procedures that accompany this policy, as amended from time to time.
- Reports of Sexual Misconduct not under the jurisdiction of Title IX that involve students will be addressed under the University Student Conduct System as outlined at <https://web.uri.edu/studentconduct/conduct-system/> and in the Student Handbook. Reports of Sexual Misconduct by or regarding employees will be addressed by the Office of Human Resource Administration and the Office of Affirmative Action, Equal Opportunity, and Diversity.

If a report of Sexual Misconduct is found to be substantiated, the University will take appropriate corrective, disciplinary, and remedial action to stop the inappropriate conduct, address its effects, and prevent its recurrence.

Students, faculty, and employees found to be in violation of this policy will be referred to the body having authority over their behavior for appropriate sanctions, up to and including written reprimand, suspension, probation, demotion, termination, or expulsion. University Affiliates, program participants, or others may be removed from University programs and/or prevented from returning to campus.

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Remedial steps may include individual counseling as well as academic, work, or transportation accommodations for the Complainant, separation of the parties, and training for the Respondent and other persons.

VI. ROLES AND RESPONSIBILITIES OF UNIVERSITY COMMUNITY MEMBERS

A. Title IX Coordinator

It is the responsibility of the Title IX Coordinator to: (1) receive complaints of Sexual Misconduct under this policy, either directly or indirectly; (2) refer complaints that fall within the jurisdiction of Title IX to the Title IX process and refer complaints that do not fall under Title IX to the appropriate process; (3) oversee the applicable processes of responding to Sexual Misconduct complaints; (4) oversee the University's Sexual Misconduct prevention education and training programs; (5) identify and address any patterns or systemic problems that arise during the review of Sexual Misconduct complaints; (6) assist members of the University community in understanding that Sexual Misconduct is prohibited by this policy; (7) answer questions about this policy; (8) ensure that employees and students are aware of the procedures for reporting and addressing complaints of Sexual Misconduct; (9) monitor full compliance with the requirements and timelines specified in the Procedures adopted under this policy; (10) conduct periodic climate surveys; and (11) compile an annual report on incidents of Sexual Misconduct.

The Title IX Coordinator may consult with other University officials and legal counsel as necessary when carrying out duties under this policy.

B. Deputy Title IX Coordinators

It is the responsibility of the Deputy Title IX Coordinators to: (1) assist members of the University community in understanding that Sexual Misconduct is prohibited by this policy; (2) answer questions about this policy; (3) serve as and/or appoint investigators and ensure that investigators are trained to respond to and investigate complaints of Sexual Misconduct; (4) ensure that employees and students are aware of the procedures for reporting and addressing complaints of Sexual Misconduct; (5) implement or designate appropriate persons to implement the Procedures adopted under this policy; and (6) provide regular updates and information to the Title IX Coordinator.

It is further the responsibility of the Deputy Title IX Coordinator for Education, Prevention, & Outreach to coordinate dissemination of information and education and training programs.

The Deputy Title IX Coordinators may consult with other University officials and legal counsel as necessary when carrying out their duties under this policy.

C. Administrators, Deans, and Other Managers

It is the responsibility of administrators, deans, and other managers (i.e., those that formally supervise other employees) to:

- Inform employees under their direction or supervision of this policy;
- Work with the Title IX Coordinator and Deputy Title IX Coordinators to implement education and training programs for employees and students; and
- Implement any corrective actions that are imposed as a result of findings of a violation of this policy.

D. All Employees

It is the responsibility of all employees to review this policy and comply with it.

E. Students

It is the responsibility of all students to review this policy and comply with it.

VII. AMNESTY

The health and safety of every student at the University is of utmost importance. The University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that an incident of violence occurs, including, but not limited to, domestic violence, dating violence, stalking, or sexual

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assault, may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University strongly encourages students to report incidents of violence to institution officials. The reporting party, a bystander acting in good faith, or a reporting individual acting in good faith who discloses any incident of violence to the University or law enforcement will not be subject to the University's student conduct code for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the incident of violence.

VIII. ACADEMIC FREEDOM

While the University is committed to the principles of free inquiry and free expression, conduct constituting Sexual Misconduct is neither legally protected expression nor the proper exercise of academic freedom.

IX. REVIEW

This policy is maintained by the University's Title IX Coordinator. The Title IX Coordinator will review this policy regularly, with the assistance of the Deputy Title IX Coordinators and legal counsel. The review will capture evolving legal requirements, evaluate the supports and resources available to the parties, and assess the effectiveness of the Procedures accompanying this policy. The review will incorporate an aggregate view of reports, resolutions, and climate.

X. DISTRIBUTION

This policy will be disseminated widely to the University community through email communication, the University's website, inclusion in orientation programs for employees and new students, and through other appropriate channels of communication.

Nothing in this policy or associated materials should be interpreted so as to limit the University's right to resolve, investigate, and/or take disciplinary action against any improper conduct of a sexual nature even though such conduct is not of the type, severity, or pervasiveness that constitutes Sexual Misconduct as defined in this policy.

Exceptions

None