



Title IX Policy

Approved August 14, 2020

Preamble

[Title IX](#) of the Education Amendments of 1972 protects individuals from sex discrimination in educational programs and activities at institutions that receive federal financial assistance.

This Title IX Policy is separate and distinct from the college's [Discriminatory Harassment and Sexual Misconduct Policy](#). Please note that each policy may use its own specific definitions and describes its own unique response procedures.

This Title IX Policy details and explicitly prohibits discrimination on the basis of sex, including Sexual Harassment as defined under federal law. When the college has Actual Knowledge that Sexual Harassment has occurred in its education program or activity against a person in the United States, as those terms are defined below (see section III.), it is obligated to respond according to specific procedures outlined in Title IX.

I. Introduction

Reed College is committed to maintaining a free and diverse campus community in which students, faculty, and staff can live, learn, work and express themselves honorably. Membership in the Reed community, as governed by the Honor Principle, imposes obligations on students, faculty, and staff to respect the dignity and autonomy of others and to treat one another civilly and without regard to factors irrelevant to participation in the life of the college.

The prohibitions within this policy should not be read to create a restriction on academic freedom and individual freedom of expression. Those forms of freedom are central to the college's values, and occasionally, discomfort may be an inevitable result of the exercise of those freedoms and the pursuit of the mission of the college. The Reed College Mission Statement and the Constitution and Bylaws of the Faculty express the college's deep commitment to academic freedom and to the free exchange of ideas.

Except as otherwise specified herein, this policy applies to faculty, staff, students, and agents of the college while in their representative roles.

Reed College acknowledges and complies with its legal responsibilities in all its programs and activities. This policy is required by, and is, as a whole, intended to be consistent with Title IX of the Education Amendments of 1972, and any other applicable federal law or regulation that prohibits discrimination on the basis of sex, including the reporting responsibilities of the Clery Act, 34 CFR 668.46. If any provisions of this policy are contrary to or interfere with any applicable law, that law will supersede the inconsistent policy provisions. Behavior violating this policy may also separately violate other federal, state or local law; it may also violate other policies of the college.

This policy is overseen by Reed's Title IX Coordinator. Please see the [Title IX web page](#) for current contact information for Reed's Title IX Coordinator and Deputy Title IX Coordinators.

Contact information and additional information about Title IX and related procedures may be found on the [Title IX Coordinator Resource Page](#). Those in need of disability-related accommodations or with questions about accessibility should contact the Title IX Coordinator (title-ix@reed.edu).

II. General Definitions Used in This Policy

The following definitions apply where the defined terms are used in this policy, regardless of whether the terms have a different meaning in other contexts.

Actual Knowledge: Notice of Sexual Harassment to the Title IX Coordinator or an Official with Authority (defined below) to institute corrective measures.

Complainant: An individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

Consent: Consent is defined here as conscious, relevantly informed, and fully voluntary agreement to, or permission for, an act.

Dating Violence: 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:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.

Dating Violence is prohibited by this policy.

Domestic Violence: Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Oregon receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Oregon (ORS §135.230).

Domestic Violence is prohibited by this policy.

Education program or activity: Locations, events, or circumstances over which the college exercises substantial control over both the Respondent and the context in which Sexual Harassment occurs; includes any building owned or controlled by a student organization that is officially recognized by the college.

Formal Complaint: A document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent, requesting that the school investigate the allegation of Sexual Harassment.

Officials with Authority: Certain representatives of the college who are able to institute corrective measures in response to a report of Sexual Harassment. The college has designated the following as Officials with Authority:

- President and Vice Presidents
- Deans (not inclusive of Associate or Assistant Deans)
- Director of Community Safety
- Title IX Coordinator and Deputy Title IX Coordinators
- Members of the Board of Trustees

Quid pro quo harassment: A Reed employee conditioning the provision of an aid, benefit, or service of Reed College on an individual's participation in unwelcome sexual conduct.

Quid pro quo harassment is prohibited by this policy.

Reasonable Person: A hypothetical person in a similar position as the Complainant, such that the ages, abilities, identities, and relative positions of authority of the individuals involved in an incident will be taken into account.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

Sexual Assault: An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

- Forcible sex offense: Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.
- Nonforcible sex offense: Unlawful, nonforcible sexual intercourse.

Sexual assault is prohibited by this policy.

Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following:

- An instance of quid pro quo harassment by a Reed employee;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Reed's education program or activity; or
- Sexual assault, dating violence, domestic violence, or stalking as defined by this policy.

Sexual Harassment is prohibited by this policy.

III. Internal reporting

The college has designated certain officials of the college as Officials with Authority. Officials with Authority must report observed or disclosed incidents of Sexual Harassment to the Title IX Coordinator within 24 hours of the observation or disclosure, absent extraordinary circumstances.

All employees of the college have mandatory reporting obligations related to physical or sexual abuse of persons under the age of 18. Certain medical and mental health professionals are also required to report allegations of elder abuse.

See the [Title IX Coordinator Resource Page](#) for more information on reporting, including anonymous reporting options.

IV. Confidential Resources

Students who are unsure whether they want to file a Formal Complaint may undertake confidential discussions with a counselor in the Health & Counseling Center, a SHARE advocate, or the Program Director for Sexual Health, Advocacy, and Relationship Education. Faculty and staff may undertake confidential discussions with a counselor through the Employee Assistance Program or with the Program Director for Sexual Health, Advocacy, and Relationship Education.

V. Response Procedures

When the college has Actual Knowledge that Sexual Harassment has occurred in its education program or activity against a person in the United States, the college will offer Complainant Supportive Measures and will describe the process for filing a Formal Complaint.

When the college receives a Formal Complaint, it will provide notice to both Complainant and Respondent, may offer Supportive Measures to both parties, and will initiate a prompt and equitable grievance process, including an investigation and a live hearing.

In situations where the college believes that a Respondent poses an immediate threat to the physical health or physical safety of any student or other individual before an investigation into Sexual Harassment allegations concludes (or where no grievance process is pending), the college may remove the Respondent from the college's education programs or activities pending the outcome of an investigation and/or grievance procedure. A Respondent who has been removed may challenge their removal immediately after the removal. Instructions regarding the appeal of such a removal will be provided at the time of the removal.

VI. Formal Complaints

For the purposes of this policy, a Formal Complaint is a document filed by (1) a Complainant with the Title IX Coordinator or (2) signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent, requesting that the college investigate the allegation of Sexual Harassment.

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the college education program or activity.

The Title IX Coordinator has discretion to file a Formal Complaint if they have Actual Knowledge of alleged Sexual Harassment, even if the Complainant does not wish to move forward with a Formal Complaint.

While there is no requirement that the Formal Complaint contain a detailed statement of facts, a Formal Complaint is required to initiate a Title IX investigation by the college.

The Title IX Coordinator has discretion to consolidate Formal Complaints of Sexual Harassment where the allegations of Sexual Harassment arise out of the same facts or circumstances.

In certain circumstances, the college must or may dismiss Formal Complaints. A dismissal does not necessarily preclude the college from taking action under the Discriminatory Harassment and Sexual Misconduct Policy, another policy, process, or procedure, or preclude consideration of additional information that becomes available after dismissal.

Mandatory dismissal: Dismissal of a Formal Complaint is mandatory where the allegations, if true, would not meet the Title IX jurisdictional conditions (meet the definition of Sexual Harassment, against a person in the United States, in the college's education program or activity).

An investigation may be required to determine whether an allegation falls under Title IX jurisdiction.

Discretionary dismissal: The college may dismiss Formal Complaints in three circumstances:

1. Where a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
2. Where the Respondent is no longer enrolled or employed by the college; or
3. Where specific circumstances prevent the college from gathering evidence sufficient to reach a determination as to the allegations contained in the Formal Complaint.

Complainants and Respondents will receive written notice of any dismissal decision, and Complainants and Respondents have a right to appeal the college's dismissal decision. The grounds for appeal are:

1. Procedural irregularity that affected the outcome of the matter;
2. Newly discovered evidence that could affect the outcome of the matter, and/or;
3. Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.

Instructions regarding the appeal of such a dismissal decision will be provided at the time of the dismissal.

VII. Resolution of Formal Complaint Procedures

A. Informal resolution

The college may not offer informal resolution unless a Formal Complaint is filed. The initial written notice of allegations sent to both parties will include information about any informal resolution processes the college has available. Those informal resolution processes will include reasonably prompt time frames and be facilitated by persons who have been trained to serve impartially and who are free from conflicts of interest.

Parties are not required to participate in an informal resolution process such as restorative justice. And either party has the right to withdraw from informal resolution and resume a grievance process at any time before agreeing to a resolution.

The informal resolution process will not be used to resolve a Formal Complaint that a Reed employee sexually harassed a student.

B. Grievance process

After a Formal Complaint has been received by the college, the status of the Respondent will determine the appropriate grievance process:

- Faculty Respondent: See the grievance process outlined in sections M, N, O of the Rules of Procedure of the Faculty;
- Staff Respondent: See the grievance process outlined in the Human Resources Formal Complaint Procedures for Staff;
- Student Respondent: See the grievance process outlined in the Title IX Grievance Procedure for Students.

If a Respondent is found responsible for Sexual Harassment through the appropriate grievance process, after an investigation and hearing, the college may impose disciplinary sanctions against Respondent and/or implement remedies for Complainant to restore Complainant's equal educational access.

VIII. Confidentiality

Except as may be permitted or required by FERPA or other state or federal law, or as necessary to conduct the grievance process, for the purposes of this Title IX policy, the college will keep confidential the identities of:

- any individual who has made a report or complaint of sex discrimination,
- any individual who has made a report or filed a Formal Complaint of Sexual Harassment
- any Complainant,
- any individual who has been reported to be the perpetrator of sex discrimination,
- any Respondent, and
- any witness.

Members of the community should understand that there may be circumstances in which acts that constitute Title IX policy violations are handled externally (in addition to or separate from internal handling) and, as a result, the college may not always have control over confidentiality.

For example, acts that constitute Title IX policy violations may also lead to criminal proceedings or civil actions, in which affected or knowledgeable individuals may be required to provide information or testimony.

IX. Amnesty

Amnesty is intended to support the practice of reporting incidents of prohibited Sexual Harassment by students, staff, and faculty, and to protect student safety. Individuals experiencing or witnessing violations of this policy while themselves violating another college policy (for example, policy concerning alcohol and other drug use) are encouraged to report the violations of this policy that they experienced or witnessed.

Normally, the college will not impose disciplinary sanctions for the other policy violation(s), provided those violations did not put the health and safety of any other person at risk. The Title IX Coordinator is responsible for determining whether amnesty applies in any given circumstance.

X. Standard of Evidence

The standard of evidence used to determine responsibility for Title IX violations is the preponderance of the evidence standard (more likely than not).

XI. Retaliation

Retaliation is prohibited by Title IX, state law and by this policy. No one at the college may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation, proceeding, or hearing.

Complaints alleging retaliation may be filed according to the grievance procedures outlined in this Title IX policy.

XII. External remedies

This Title IX policy and its grievance processes supplement, and do not replace, other remedies that may be available for acts which constitute violations of this policy. Students, faculty and staff have the option at all times to file a criminal complaint with law enforcement or to seek a civil remedy, in addition to or in place of using college's procedures.

Individuals also have the right to file a complaint related to Title IX with the United States Department of Education:

U.S. Department of Education

Office for Civil Rights

Lyndon Baines Johnson Department of Education Bldg

400 Maryland Avenue, SW

Washington, DC 20202-1100

Telephone: 800-421-3481

FAX: 202-453-6012; TDD: 800-877-8339

Email: OCR@ed.gov

Website: www.ed.gov/ocr

Or

Seattle Office

Office for Civil Rights

U.S. Department of Education

915 Second Avenue Room 3310

Seattle, WA 98174-1099

Telephone: 206-607-1600

FAX: 206-607-1601; TDD: 800-877-8339

Email: OCR.Seattle@ed.gov