

## **POLICY PROHIBITING HARASSMENT (Including Sexual Harassment/Misconduct)**

It is the policy of Ripon College, consistent with its efforts to foster an environment of respect for the dignity and worth of all members of the College community, that all varieties of harassment and intimidation — sexual and non-sexual, physical and non-physical, verbal and non-verbal — of employees and students of Ripon College are unacceptable and impermissible conduct which will not be tolerated.

Harassment includes behavior, speech, or writing that demeans or stereotypes individuals in a harmful way. Harassment may create an intimidating, hostile, or demeaning environment and often has the effect of interfering with an individual's full and free participation in the life of the College.

### **Procedure**

When such misconduct occurs or if there may be cause for concern, employees should notify or consult the vice president in their area, Jennifer Franz as the Director of Human Resources, and/or Michele Wittler as the Title IX Coordinator, and/or Julie Johnson as Athletic Director. Students should notify or consult residence hall staff, counselors, Chris Ogle as Dean of Students, the police department, Julie Johnson as Athletic Director, and/or Michele Wittler as the Title IX Coordinator.

Upon notification of a harassment complaint, a confidential (to the maximum extent possible) and impartial investigation will be promptly commenced and will include direct interviews with involved parties and where necessary with employees who may be witnesses or have knowledge of matters relating to the complaint. The parties of the complaint will be notified of the findings.

This policy also expressly prohibits retaliation of any kind against any employee bringing a complaint or assisting in the investigation of a complaint. Such employees may not be adversely affected in any manner related to their employment. Such retaliation is also illegal under Section 111.322 (2m), Wisconsin Statutes.

### **Contact Information**

Jennifer Franz, Director of Human Resources, ext. 8192, Smith 202B, [franzj@ripon.edu](mailto:franzj@ripon.edu)  
Julie Johnson, Athletic Director, ext. 8772, Storzer 108, [johnsonj@ripon.edu](mailto:johnsonj@ripon.edu)  
Chris Ogle, Vice President and Dean of Students, ext. 8111, Bartlett 101, [oglec@ripon.edu](mailto:oglec@ripon.edu)  
Michele Wittler, Title IX Coordinator, ext. 8119, Bartlett 105, [wittlerm@ripon.edu](mailto:wittlerm@ripon.edu)

### **Purpose**

This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

### **Scope**

This policy applies to all members of the Ripon College community.

Sexual Misconduct offenses include, but are not limited to:

- Sexual Harassment
- Non-Consensual Sexual Contact (or attempts to commit same)
- Non-Consensual Sexual Intercourse (or attempts to commit same)
- Sexual Exploitation

### **Sexual Harassment**

Sexual harassment is unwelcome, gender-based verbal or physical conduct that is, sufficiently severe, persistent or pervasive that it has the effect of unreasonably interfering with, denying or limiting someone's ability to participate in or benefit from the College's educational program and/or activities, and is based on power differentials (*quid pro quo*), the creation of a hostile environment, or retaliation.

Examples include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence, stalking; gender-based bullying.

There are three types of sexual harassment.

Hostile Environment includes any situation in which there is harassing conduct that is sufficiently severe, pervasive and objectively offensive that it alters the conditions of employment or limits, interferes with or denies educational benefits or opportunities, from both a subjective (the alleged victim's) and an objective (reasonable person's) viewpoint.

Factors that could be considered to determine a "hostile" environment include but are not limited to:

- the frequency of the conduct;
- the nature and severity of the conduct;
- whether the conduct was physically threatening;
- whether the conduct was humiliating;
- the effect of the conduct on the alleged victim's mental or emotional state;
- whether the conduct was directed at more than one person;
- whether the conduct arose in the context of other discriminatory conduct;
- whether the conduct unreasonably interfered with the alleged victim's educational or work performance;
- whether the statement/electronic communication is a mere utterance of an epithet which engenders offense in an employee or student, or offends by mere discourtesy or rudeness;
- whether the speech or conduct deserves the protections of academic freedom or the 1<sup>st</sup> Amendment.

Quid pro quo sexual harassment exists when there are:

- unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and
- submission to or rejection of such conduct results in adverse educational or employment action.

Retaliatory harassment is any adverse employment or educational action taken against a person because of the person's participation in a complaint or investigation of discrimination or sexual misconduct.

### **Non-Consensual Sexual Contact**

Non-consensual sexual contact is any intentional sexual touching, however slight, with any object, by a person upon a person, that is without consent and/or by force.

Sexual contact includes intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttock, groin, genitals, mouth or other orifice.

### **Non-Consensual Sexual Intercourse**

Non-consensual sexual intercourse is any sexual intercourse, however slight, with any object, by a person upon a person, that is without consent and/or by force. As with non-consensual sexual contact, the use of force is not "worse" than the subjective experience of violation of someone who has sex without consent. However, the use of physical force constitutes a stand-alone non-sexual offense as well, as it is the College's expectation that those who use physical force (restrict, battery, etc.) would face not just the sexual misconduct charge, but charges under the code for the additional violent and threatening behavior.

Intercourse includes vaginal penetration by a penis, object, tongue, or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

### **APPLICABLE DEFINITIONS:**

- **Consent:**
  - Consent is
    - clear, and
    - knowing, and
    - voluntary [or affirmative, conscious and voluntary],
    - words or actions,
    - that give permission for specific sexual activity.
  - Consent is active, not passive.
  - Silence, in and of itself, cannot be interpreted as consent.
  - Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity.
  - Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
  - Previous relationships or prior consent cannot imply consent to future sexual acts.
  - Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.
  - In order to give consent, one must be of legal age.

- Sexual activity with someone you know to be or should know to be incapacitated constitutes a violation of this policy.
  - Incapacitation can occur mentally or physically, from developmental disability, by alcohol or other drug use, or blackout.
  - The question of what the responding party should have known is objectively based on what a reasonable person in the place of the responding party, sober and exercising good judgment, would have known about the condition of the reporting party.
  - Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
  - This policy also covers a person whose incapacity results from mental disability, sleep, unconsciousness, involuntary physical restraint, or from the taking of rape drugs. [Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another student is a violation of this policy.]
  
- **Force:** Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes free will or resistance or that produces consent (“Have sex with me or I’ll hit you. Okay, don’t hit me, I’ll do what you want.”).
  - **Coercion** is unreasonable pressure for sexual activity. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
  - NOTE: There is no requirement for a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

## Sexual Exploitation

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses.

Examples of sexual exploitation include, but are not limited to:

- invasion of sexual privacy;
- prostituting another person;
- non-consensual video or audio-taping
- going beyond the boundaries of consent (such as letting people hide in the closet to watch you having consensual sex);
- engaging in voyeurism;
- knowingly transmitting an STI or HIV to another person;
- exposing one’s genitals in non-consensual circumstances; inducing another to expose their genitals;

- sexually-based stalking and/or bullying may also be forms of sexual exploitation

### **Other Misconduct Offenses that will fall under this policy when gender-based**

- threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
- discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of gender;
- intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity;
- bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally (that is not speech or conduct otherwise protected by the 1<sup>st</sup> Amendment);
- violence between those in an intimate relationship to each other;
- stalking, defined as repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of a member of the community; or the safety of any of the immediate family of members of the community;
- use of alcohol or other drugs will never function as a defense to a violation of this policy.

For reference to the pertinent Wisconsin statutes on sex offenses, please see

<https://docs.legis.wisconsin.gov/document/statutes/940.225>

### **Employee Responsibility Related to Reporting Information Regarding Sexual Harassment/Assault of a Student: Title IX**

Title IX focuses on the adverse consequences faced by victims of gender discrimination and sexual harassment and creates obligations for the College to investigate and to provide a “prompt and effective remedy.” If the victim is a student, Title IX means among other things that the College must provide a safe environment that does not interfere with the victim’s right to pursue an education. The College incurs this obligation when a victim has given notice to a “responsible employee,” or when the College, in the exercise of reasonable care, should have known about the assault or harassment.

### **Requirements for Reporting Possible Title IX Issues**

All College faculty and staff are considered Responsible Employees and are required to share reports of sexual harassment or sexual assault of a student with the College’s Title IX Coordinator, Director of Human Resources, Director of Athletics, or a Vice President of the College.

On campus, the College’s Health Services nurse, the nurse practitioner, and the College’s counselors can maintain confidentiality for anyone 18 years and older.

*10/1/2013 Jennifer Franz*