



Discriminatory Harassment and Sexual Misconduct Policy

Approved by the Student Senate May 12, 2015. Approved by the Faculty May 15, 2015. Effective July 1, 2015. Updated August 14, 2020

“We declare our commitment to responsible and honorable conduct in academic and community affairs, and we reaffirm one another's rights to freedom of inquiry and expression in coursework, scholarship, and the day-to-day life of the Reed Community. Since such freedom requires an atmosphere of trust and mutual confidence, we further declare that dishonesty, intimidation, harassment, exploitation, and the use or threat of force are incompatible with the preservation of this freedom.”

Under principles of academic freedom, faculty members can use a wide variety of teaching techniques, and faculty and students can engage in the free and open exchange of ideas. The educational context is distinct from the context of the workplace in that wide latitude is required to determine the appropriate content and presentation of academic material. Academic discourse – which may include discourse that occurs

II. Notice of Non-discrimination

IV. Use of a Reasonable Person Standard

The College will use a “reasonable person” standard when applying the definitions herein and in investigating reports and complaints of violations of this policy, both in determining facts and in assessing culpability.

A “reasonable person” is a hypothetical person who is level-headed and rational, aware of community norms, and not under the influence of a judgment-impairing substance. Further, this person considers all information available to them about the circumstances and actual and perceived identities of all parties involved in the incident(s).

This standard can be used in different ways throughout the investigation and adjudicative process. For example, because the standard is referred to in the definition of prohibited discriminatory harassment, parties investigating a report or formal complaint of discriminatory harassment will use the reasonable person standard by assessing the situation from the perspective of a reasonable person as defined above to decide if the behavior constitutes a violation of this policy. As another example, parties may use the reasonable person standard when assessing whether a reasonable person, as defined above, in the same position as the respondent, would believe that they had consent in that context.

V. Discriminatory Harassment

Discriminatory harassment is unwelcome verbal, written, visual, or physical conduct that is derogatory, insulting and/or intimidating and that is based on or motivated by an individual’s or group’s actual or perceived affiliation with protected classes or categories. See section II of this policy for a list of protected classes or categories. The present section includes coverage of discriminatory harassment that is based on sexual orientation. Section VI addresses, in detail, harassment that is of a sexual nature or based on gender or gender identity. All instances of discriminatory harassment are detrimental to our community and may be violations of the Honor Principle.

Discriminatory harassment is both unlawful and violates this policy if it creates a hostile environment. Harassment creates a hostile environment if it is sufficiently severe, pervasive, or persistent that it either (1) denies, interferes with, or limits a person’s ability to participate in or benefit from the College’s programs or activities; or (2) creates a learning, working, or living environment that a reasonable person would consider intimidating, hostile, or offensive.

Not only does Reed prohibit discriminatory harassment that creates a hostile working environment, but the college also seeks to maintain a supportive living, learning, and working environment for all community members, consistent with the principles of academic freedom as described in Section I of this policy. Reed encourages community members to report any behavior that may qualify as discriminatory harassment whether or not they are certain that the behavior in question rises to the level of discriminatory harassment or a hostile environment as defined above. Refer to Section XI of this policy for additional information about reporting. For further information about discriminatory harassment and relevant resources, community members should consult the Discriminatory Harassment Resource Page.

Under principles of academic freedom, faculty members can use a wide variety of teaching techniques, and faculty and students can engage in the free and open exchange of ideas. The educational context is distinct from the context of the workplace

in that wide latitude is required to determine the appropriate content and presentation of academic material. Academic discourse – which may include discourse that occurs in formal academic or educational settings as well as discourse that occurs outside of the classroom – regarding acts or speech of a potentially discriminatory nature does not, in and of itself, constitute discriminatory harassment. Legitimate and recognized forms of artistic expression are similarly protected. Members of the community are encouraged to conduct themselves honorably when engaging with these serious issues.

Discriminatory harassment can be carried out by various means, from the use of offensive or intimidating references to a protected class (such as with slurs, epithets, or offensive stereotypes) to outright threats, and by way of various mechanisms or media, whether verbal, non-verbal, written, visual, electronic or other. Discriminatory harassment includes disparaging, degrading, or abusive words, phrases, or generalizations which are directed at an individual or group based on their actual or perceived affiliation with a protected class, and for which there is no reasonable

- A person can remove consent to an ongoing activity at any time during that activity, or thereafter for subsequent activity.
- Previous or ongoing sexual relationships or encounters do not in and of themselves constitute consent to any subsequent sexual acts.
- Consent cannot be forced or coerced; agreement or permission due to duress, coercion, threat, implied threat, or intimidation does not constitute consent.
- A person who is asleep, or physically or mentally incapacitated – whose judgment is seriously impaired by alcohol, other drugs, or other factors, such as lack of sleep – cannot give consent.
- Intoxication or impairment by alcohol or other drugs, or any other mental impairment by alcohol.

stereotyping whether or not they are certain that the behavior in question rises to the level of sexual or gender-based harassment, or a hostile environment as defined above. Refer to Section XI of this policy for additional information about reporting.

E. PROHIBITED AND INAPPROPRIATE CONSENSUAL RELATIONSHIPS

Romantic or sexual relationships that might be appropriate in other contexts may be inappropriate within the College community.

Relationships between students and faculty or staff. Because those who teach are entrusted with guiding students, judging their work, giving grades for courses and papers, and recommending students, instructors are in a particularly delicate relationship of trust and power. This relationship must not be jeopardized by possible doubt of intent, fairness of professional judgment, or the appearance to other students of favoritism. Students must be free from the kind of influence that can interfere with education and development. Similarly, staff members are in a position to influence or affect students' educational experiences and are charged with the responsibility of assisting or protecting students. It is therefore a violation of this policy for faculty and staff to have romantic or sexual relationships with students.

There are limited circumstances under which it is appropriate for the College to grant exceptions to this prohibition; for example, when the spouse or established partner of a faculty or staff member enrolls as a student. The parties must disclose the relationship to the Title IX Coordinator (or designee thereof) to seek such an exception.

Other relationships: Sensitivity to possible conflicts of interest, or to misuse of power, is necessary in cases of other romantic or sexual relationships in which one partner is in a position of power or authority over another. Such relationships are strongly discouraged. Individuals in such relationships must consult with an appropriate office (Human Resources for faculty and staff; the Dean of Students for students) in order to identify and minimize potential conflicts. Power imbalance can occur in romantic or sexual relationships between faculty and staff, or within the faculty, staff, or student body.

Consideration of Prior Consensual Relationship in Complaint Procedures: Members of the community are reminded that the existence of a prior consensual relationship is not, in and of itself, a defense to a complaint of inappropriate conduct or violations of Reed policy. Romantic or sexual relationships may be consensual at the outset, but consent may be withdrawn at any time. Any complaint will be evaluated based on its entire context including the nature of the relationship at the time of the conduct in question.

VII. Relationship Abuse

A. RELATIONSHIP ABUSE

Relationship abuse is defined as coercive, manipulative, abusive, and/or violent behavior on the part of the abusive partner in a personal, intimate relationship. Relationship abuse includes behaviors that are defined as dating and domestic violence for purposes of Clery Act reporting.

Relationship abuse may include behavior prohibited by other sections of the DHSM, and all instances of relationship abuse may be violations of the Honor Principle. Abusive behavior directed toward persons not in an intimate relationship is not defined as relationship abuse, but may be prohibited by other sections of the DHSM and/or may be a violation of the Honor Principle.

Relationship abuse is directed primarily against a person who is or has been involved in a sexual, dating, domestic or other emotionally, romantically, and/or physically intimate relationship with the respondent, although the abuse may be directed toward the family members, friends, pets, or property of the targeted partner. Relationship abuse can encompass a broad range of behavior including, but not limited to, coercive, abusive, or violent behaviors that are physical, sexual, psychological, verbal, economic, and/or emotional in nature. The behaviors generally form an ongoing pattern of behavior, although one severe instance of physical or sexual abuse may be sufficient to establish relationship abuse.

Examples of relationship abuse may include:

- Emotional or verbal abuse: words and/or actions used to manipulate or denigrate the targeted partner(s);
- Threats and intimidation: coercion and manipulation, including threats of self-harm, used to compel the target to behave as directed; exhibiting extreme possessiveness or jealousy to control or compel the targeted partner(s) behavior; threatening to share information which could damage the target's reputation or relationships with others; threatening to harm the target's family, friends, pets, or property; threatening the target with physical or sexual harm;
- Isolation and restriction of freedom: isolating or confining the target for a substantial period of time; repeatedly depriving the target of personal freedom of movement or access to friends, family, or support systems;
- Resource abuse: forcible or coercive denial of use or access to owned or shared assets, or limiting or controlling access to education or work; words and/or actions aimed at manipulating the financial or legal situation of the target;
- Harm to property or pets: attempting to cause or causing damage or injury to property owned or controlled by the target, or the target's pets; interfering with the target's access to property they own or control, or their pets;
- Physical abuse: attempting to cause or causing the target bodily injury or offensive physical contact;
- Sexual assault, sexual exploitation, and sexual harassment as defined in Section IV. Consent and Sexual Misconduct of this policy; and
- Stalking as defined in VIII. Other Prohibited Conduct of this policy

B. DATING VIOLENCE

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the target. It includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence. The existence of a qualifying relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

C. DOMESTIC VIOLENCE

Domestic Violence is a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the target, or by a person who is cohabitating with or has cohabitated with the target as a spouse or intimate partner; or by a person with whom the target shares a child in common; or a family or household member as defined by ORS §135.230.

Dating violence and domestic violence are prohibited by this policy.

VIII. Stalking

Stalking is engaging in two or more acts targeting a specific person that would cause a reasonable person to feel apprehension for the target's safety or the safety of others or cause a reasonable person to suffer substantial emotional distress. Those acts may include, but are not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property or pets.

For purposes of this definition, substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking is prohibited by this policy.

IX. Other Prohibited Conduct

Other harassing conduct violates this policy if it is sufficiently severe, pervasive, or persistent that it either (1) denies, interferes with, or limits a person's ability to participate in or benefit from the College's programs or activities; or (2) creates a learning, working, or living environment that a reasonable person would consider intimidating, hostile, or offensive, and lacking a reasonable academic, educational or artistic justification. Such harassment may include:

- Violence or threat of violence, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of a member of the Reed community, regardless of the relationship status of the parties;
- Bullying, defined as repeated or aggressive behavior likely to intimidate, discomfort, or hurt another member of the Reed community, physically or mentally.

Furthermore, the use of Reed College facilities, resources, and/or technology to engage in any behavior that violates this policy is prohibited.

Under principles of academic freedom, faculty members can use a wide variety of teaching techniques, and faculty and students can engage in the free and open exchange of ideas. The educational context is distinct from the context of the workplace in that wide latitude is required to determine the appropriate content and presentation of academic material. Academic discourse – which may include discourse that occurs in formal academic or educational settings as well as discourse that occurs outside of the classroom – regarding acts or speech of a sexual or potentially discriminatory nature does not, in and of itself, constitute prohibited conduct. Legitimate and recognized forms of artistic expression are similarly protected. Members of the community are encouraged to conduct themselves honorably when engaging with these serious issues.

In addition to the explicit prohibitions in this policy, any *attempts* to commit an explicitly prohibited act that take a substantial step towards the commission of the act, in themselves constitute misconduct in violation of this policy.

X. Retaliation

Retaliation is prohibited by federal and state law and by this policy. No one at the College may reprimand, retaliate, take any adverse action, or discriminate against an individual for having opposed unlawful conduct, initiated a report or complaint, provided information as a witness, or participated in the resolution of a report or complaint regarding potential violations of this policy.

Acts may be retaliatory if they reasonably act as, or could act as, a deterrent to further protected activity, for example, by

- Disadvantaging or restricting a person in that person's status as a student, employee, or visitor or in the ability to gain benefits or opportunities available at the College;
- Precluding a person from pursuing discrimination claims;
- Ostracizing a person who has complained or participated as a witness or otherwise;
- Pressuring someone to drop or not support a complaint or to provide false or misleading information; or
- Adversely altering the educational or work environment of someone who has complained or participated in the complaint process.

XI. Reporting

Reed College is required to conduct an initial inquiry, or to make contact with named parties, whenever an obligated reporter has actual knowledge, or in the exercise of reasonable care should know, that possible sexual harassment, sexual assault, domestic violence, dating violence or stalking or any other potential violation of this policy has occurred. We strongly encourage all community members to report experienced, observed, suspected, or disclosed harassment, and apparent violations of this policy. Reports regarding discriminatory harassment may be made to the Dean for Institutional Diversity (or designee thereof) or to Community Safety. Reports regarding sexual misconduct, relationship abuse, stalking, and other harassing conduct may be made to the Title IX Coordinator (or designee thereof) or to Community Safety. Reporting is not the same as filing a formal complaint (though, for some purposes, a formal complaint may function both as a report and a formal complaint). Reporting to the college does not constitute a report to law enforcement, although the college will assist the complainant in reporting to law enforcement if requested, and at times may contact law enforcement without the consent of the complainant if it is necessary to protect the safety of the community. Anonymous reports may be made in writing, telephonically,

from the person who experienced the alleged harassment. Investigations of reports may yield a response by the College that is non-disciplinary in nature, but designed to remedy or to prevent prohibited harassment.

In addition to assessing individual reports, the Title IX Coordinator (or designee thereof) and the Dean for Institutional Diversity (or designee thereof) will review reports in the aggregate in order to discover and address patterns of behavior that create or threaten to create a hostile environment.

A. Internal reporting

All Reed community members (staff, faculty, and students) should help ensure that violations of this policy are promptly reported. Normally, this means reporting any witnessed violations, or violations learned about through the disclosures of others. The Title IX Coordinator designates certain employees of the college as Obligated Reporters. Obligated Reporters must report to Reed College when they have actual knowledge of, or in the exercise of reasonable care should know about incidents of sexual harassment, sexual assault, domestic violence, dating violence, or stalking or any other potential violation of this policy. Obligated reports must be made to the Title IX Coordinator or their designee within 24 hours of the observation or disclosure. Obligated Reporters are not expected to request information beyond what they have actual knowledge of, or in the exercise of reasonable care should know, but reports must include all relevant information known to the reporter. Obligated Reporters are not required to report incidents of sexual misconduct, relationship abuse, or stalking which they have personally experienced.

When a person initiates a disclosure, an Obligated Reporter should inform the person of their Obligated Reporter status, and inform them that they may instead choose to speak with a confidential resource such as a counselor or advocate. The Obligated Reporter should explain that all information disclosed to them, including the names of all parties involved, the type of incident, and the date, time, and location of the incident must be reported to the Title IX Coordinator or their designee. The reporter should also explain that the college will consider a request by the discloser that their identity be kept confidential during investigation.

See the [Title IX Coordinator Resource Page](#) and the [Discriminatory Harassment Resource Page](#) for more information on reporting. The staff of the Health and Counseling Center, when they are providing medical or mental health care, are normally exempt from reporting obligations; see section XI.B.

B. Mandatory external reporting of certain forms of abuse

Any employee of Reed College, regardless of position or classification, who has reasonable cause to believe that any child (according to Oregon law, a person under the age of 18) with whom the employee has come in contact has suffered physical or sexual abuse, or that any person with whom the employee has come in contact has abused a child, is required by law to report to the Department of Human Services or law enforcement, unless otherwise exempt under state law (ORS 419B.010). Additionally, Oregon state law considers persons under the age of 18 to be “incapable of consenting to a sexual act” (ORS §163.315) and states that all such behavior must be reported to the Oregon Department of Human Services or law enforcement (ORS 419B.010). This duty to report is separate and distinct from any procedures that Reed may have for reporting this information internally; an employee does not satisfy the employee's legal obligations by making only an internal report.

Certain medical and mental health professionals are required by law to report allegations of the abuse of an elderly person to the Oregon Department of Human Services or law enforcement ([ORS § 124.060](#)).

XII. Amnesty

Amnesty is intended to support the practice of students, staff, and faculty reporting incidents of prohibited discriminatory harassment, sexual misconduct, and other violations of this policy, 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. (In appropriate circumstances, the College may even grant amnesty for other violations that did put the health and safety of another person at risk.) The Title IX Coordinator (or designee) is responsible for determining whether amnesty applies in any given circumstance.

XIII. Confidentiality

Reed College recognizes its obligations to adopt, implement and enforce policies and protocols to address discrimination, sexual misconduct and discriminatory harassment, but also understands that its responsibilities are at times inconsistent with the desires

property. In addition, if information is provided to a licensed professional outside of the professional relationship, that professional may not be permitted to keep it confidential.

C. Confidentiality and Complainants of policy violations

The College is sensitive to the interests of complainants who do not wish their names or other identifiable information to be disclosed to anyone else. In such circumstances, the College will attempt to respect these wishes, but may be limited in its ability to respond to a report or complaint while doing so. Further, Reed must consider its responsibility to provide a safe and non-discriminatory environment for all students, faculty, staff and visitors, attending to such factors as the seriousness of the alleged conduct, whether there have been other complaints against the same individual, and the extent of any threat to the College community; because of these considerations, it may not always be able to respect the wish for complete confidentiality.

D. Confidentiality and reporters and witnesses

Reed College will endeavor to protect the confidentiality of individuals who provide information about policy violations but must also comply with its obligations and responsibilities under this policy and applicable law. Members of the community should understand that the College has obligations to investigate reports of policy violations and to take reasonable steps to prevent prohibited discrimination, discriminatory harassment, sexual misconduct, or retaliation, and that the desire for confidentiality can conflict with these obligations.

E. Confidentiality and respondents

Reed College will similarly attempt to protect the confidentiality of respondents, again to the extent that it can while complying with its obligations, during and after investigation and formal complaint resolution. Applicable law can limit the protection of the confidentiality of respondents in particular.

XIV. Procedures for the Resolution of Complaints

A. Informal resolution

There may be times when informal resolution, either through direct discussion, formal mediation, or with advice obtained from a designated officer of the College may be the appropriate response to a violation of this policy. See the [Title IX Coordinator Resource Page](#) and [Discriminatory Harassment Resource Page](#) for a list of such officers. Students may consider consulting the student Honor Council (hc-students@lists.reed.edu) for advice on how to proceed with informal resolution or with a formal complaint; general inquiries about these processes are confidential. The Honor Council can also assist with informal resolution. When Honor Council members are acting or approached in their representative capacity, they may have special reporting obligations, and so confidentiality may be limited.

No one is required, however, to participate in mediation or to directly confront those they believe have violated this policy. Individuals may choose to end the informal resolution process at any time and begin the formal complaint process.

In cases of sexual assault, relationship abuse, and stalking, mediation is not an appropriate tool and will not be used by the College to resolve complaints.

Students who are unsure whether they want to make a formal complaint may undertake confidential preliminary discussions of possible violations with a counselor in the Health

& Counseling Center. Faculty and staff may similarly undertake confidential discussions with a counselor through the Employee Assistance Program.

B. Formal complaints

Formal complaints may be made to the appropriate body for resolving the complaint, or to the Title IX Coordinator, who will forward the complaint as necessary. The resolution procedure used is based on the status of the respondent:

- Regarding members of the faculty: complaints are received by the Dean of Faculty and handled according to sections F, G, and H of the Rules of Procedure of the Faculty (n.b. Effective February 2016, sections J, K, L pertain, replacing F, G, and H);
- Regarding staff employees: complaints are received by the Director of Human Resources and handled according to the Human Resources Formal Complaint Procedures for Staff;
- Regarding students: complaints are received by the Student Judicial Board or by the Title IX Board and are handled according to the Judicial Board Code.

C. External remedies

The above procedures supplement, and do not replace, other remedies for acts which

Age Discrimination in Employment Act, or the Equal Pay Act) may also file a complaint with the Equal Employment Opportunity Commission (EEOC):

Equal Employment Opportunity Commission

Seattle Field Office

Federal Office Building

909 First Avenue

Suite 400

Seattle, WA 98104-1061

Phone: (800) 669-4000

TTY: (800) 669-6820