

ROSE-HULMAN POLICY FOR CIVIL RIGHTS EQUITY

ROSE-HULMAN
INSTITUTE OF TECHNOLOGY

USE AND ADAPTATION OF THIS MODEL WITH CITATION TO
THE NCHERM GROUP/ATIXA IS PERMITTED THROUGH A LICENSE
TO ROSE-HULMAN INSTITUTE OF TECHNOLOGY
ALL OTHER RIGHTS RESERVED.
©2013. THE NCHERM GROUP, LLC/ATIXA

POLICY: EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION

Rose-Hulman affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the Rose-Hulman Complaint Resolution Procedure for Civil Rights Equity posted at: <https://www.rose-hulman.edu/about-us/human-resources/title-ix-procedure.pdf>. The Complaint Resolution Procedure is applicable to Rose-Hulman students and student organizations. The Complaint Resolution Procedure will also be used for any complaints involving faculty or staff if a student is the complaining party.

All Rose-Hulman employees are entitled to a working environment free of discrimination. While the Rose-Hulman Policy for Civil Rights Equity, including the non-discrimination policies, applies to all employees, the process for handling complaints made by employees is different from students. All complaints of discrimination or other violations of the Civil Rights Equity policy made by employees will be handled by Human Resources. Employees should report all possible violations of the Civil Rights Equity policy to Megan Elliott, Vice President for Human and Environmental Services.

Kristen Loyd, Director of Student Services and Hulman Memorial Union, and Megan Elliott, Vice President for Human and Environmental Services, serve as the Title IX Coordinator(s) for Rose-Hulman. They oversee implementation of Rose-Hulman Equity and Equal Opportunity program, disability compliance and the Rose-Hulman policy on equal opportunity, harassment and nondiscrimination. Reports of discrimination, harassment and/or retaliation should be made to the Title IX Coordinator(s) or Assistant Coordinator(s) promptly, but there is no time limitation on the filing of complaints, as long as the responding party remains subject to Rose-Hulman jurisdiction.

All reports are acted upon promptly while every effort is made by the Institute to preserve the privacy of reports. Anonymous reports may also be filed using the reporting form posted at <https://www.rose-hulman.edu/about-us/human-resources/incident-report-form.pdf>. Reporting is addressed more specifically in Section 7. Reports of discrimination by the Title IX Coordinator(s) should be reported to the Institute President, Robert Coons (office - Hadley Hall 200) email - Coons@rose-hulman.edu, phone - 812-877- 8007).

This policy applies to all discriminatory behaviors that take place on the campus, at Institute-sponsored events and may also apply off-campus and to actions online when the Title IX Coordinator(s) determines that the off-campus conduct affects a substantial Rose-Hulman interest. A substantial Rose-Hulman interest is defined to include:

- a) Any action that constitutes criminal offense as defined by federal or Indiana law. This includes, but is not limited to, single or repeat violations of any local, state or federal law committed in the municipality where Rose-Hulman is located;
- b) Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or others;
- c) Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- d) Any situation that is detrimental to the educational interests of Rose-Hulman.

Inquiries about this policy and procedure may be made internally to:

Kristen Loyd
Director of Student Services and Hulman Memorial Union
Title IX Coordinator
Office of Student Affairs
Mussallem Union 236
(812) 877-8484
loyd1@rose-hulman.edu

Megan Elliott
Vice President for Human and Environmental Services
Title IX Coordinator
Office of Human Resources
Moench Hall A116
(812) 877-8548
elliott3@rose-hulman.edu

Kyle Rhodes
Associate Director of Residence Life
Assistant Title IX Coordinator
Office of Student Affairs
Mussallem Union 158
(812) 877-8651
rhodeska@rose-hulman.edu

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Equal Employment Opportunity Commission (EEOC)
Contact: <http://www.eeoc.gov/contact/>

1. Rose-Hulman Policy on Nondiscrimination

Rose-Hulman adheres to all federal and state civil rights laws banning discrimination in private institutions of higher education. Rose-Hulman will not discriminate against any employee, applicant for employment, student or applicant for admission on the basis of race, religion, sex, pregnancy, ethnicity, national origin (including ancestry), citizenship status, physical or mental disability, age, sexual orientation, gender, gender identity or expression, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, or any other protected category under applicable local, state or federal law, including protections for those opposing discrimination or participating in any complaint process on campus or within the Equal Employment Opportunity Commission or other human rights agencies.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community, guest or visitor who acts to deny, deprive or limit the educational, employment, residential and/or social access, benefits and/or opportunities of any member of the campus community on the basis of their actual or perceived membership in the protected classes listed above is in violation of Rose-Hulman policy on nondiscrimination. When brought to the attention of Rose-Hulman, any such discrimination will be appropriately remedied by Rose-Hulman according to the Rose-Hulman Complaint Resolution Procedure for Civil Rights Equity.

2. Rose-Hulman Policy on Accommodation of Disabilities

Pursuant to the Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA), Rose-Hulman Institute of Technology does not discriminate against employees with disabilities and, when needed, the Institution will provide reasonable accommodations to employees so that they may perform the essential job duties of their position. Furthermore, it is the policy of Rose-Hulman to comply with all federal, state and local laws concerning the employment of persons with disabilities and act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC). It is our policy not to discriminate against employees with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment.

Rose-Hulman will reasonably accommodate employees with a disability so that they can perform the essential functions of their job unless doing so causes a direct threat to these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation and/or if the accommodation creates an undue hardship to Rose-Hulman. Reasonable accommodation includes any changes to the work environment and may include making existing facilities readily accessible to and usable by employees with disabilities, job restructuring, modified work schedules, acquisition or modification of equipment or devices, appropriate adjustment or modifications of training materials, and providing qualified readers or interpreters. An employee with a disability is responsible for requesting an accommodation in writing to the Director of Human Resources and provides appropriate documentation. The Director of Human Resources will work with the employee's supervisor and the Director of Disability Services or other appropriate individuals to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform their job duties.

a. Students with Disabilities

Rose-Hulman is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs and activities of Rose-Hulman. All accommodations are made on a case-by-case basis. A student requesting any accommodation should first contact the Director of Disability Services who coordinates services for students with disabilities. The director reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate to the student's particular needs and academic programs.

b. Employees with Disabilities

Pursuant to the ADA, Rose-Hulman will provide reasonable accommodation(s) to all qualified employees with known disabilities, where their disability affects the performance of their essential job functions, except where doing so would be unduly disruptive or would result in undue hardship.

An employee with a disability is responsible for requesting an accommodation in writing to Director of Disability Services and provide appropriate documentation. The Director of Disability Services will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties.

3. Rose-Hulman Policy on Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. Rose-Hulman's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under Rose-Hulman policy.

a. Discriminatory and Bias-Related Harassment

Harassment constitutes a form of discrimination that is prohibited by law. The Institute will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, the Institute may also impose sanctions on the harasser. The Institute's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

A hostile environment may be created by oral, written, graphic, or physical conduct that is sufficiently severe, persistent/pervasive, and objectively offensive that it interferes with, limits, or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.¹

Offensive conduct and/or harassment that does not rise to the level of discrimination or that is of a generic nature not on the basis of a protected status may not result in the imposition of discipline under Institute policy, but will be addressed through civil confrontation, remedial actions, education, and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, employees should contact the Director of Human Resources and students should contact the Dean of Student Affairs.

The Institute condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by Institute policy or law.

b. Sexual Harassment

The Institute has adopted the following definition of sexual harassment, in order to address the special environment of an academic community, which consists not only of employer and employees, but of students as well.²

¹ This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: Department Of Education Office For Civil Rights, Racial Incidents And Harassment Against Students At Educational Institutions Investigative Guidance. The document is available at <http://www.ed.gov/about/offices/list/ocr/docs/race394.html>.

² Also of relevance is the Office of Civil Rights 2001 statement on sexual harassment, "Revised Sexual Harassment Guidance: Harassment Of Students By School Employees, Other Students, Or Third Parties, Title IX," which can be found at <http://www2.ed.gov/legislation/FedRegister/other/2001-1/011901b.html>, as well as the April, 2011 Dear Colleague Letter on Campus Sexual Violence, which can be found at: http://www.whitehouse.gov/sites/default/files/dear_colleague_sexual_violence.pdf

Sexual harassment is unwelcome, sexual, or gender-based verbal, written, online, and/or physical conduct.³ Anyone experiencing sexual harassment in any Institute program is encouraged to report it immediately to the Institute's Title IX Coordinator(s).

Sexual harassment creates a hostile environment, and may be disciplined when it is sufficiently severe, persistent, pervasive, and objectively offensive that it interferes with, denies, or limits an individual's ability to participate in or benefit from the Institute's educational, social, residential programs, employment, or benefits of employment.

c. Sexual Misconduct

State law defines various violent and/or non-consensual sexual acts as crimes. Rose-Hulman prohibits all crimes as defined by federal, state, and local laws. Additionally, Rose-Hulman has defined categories of sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, Rose-Hulman considers Non-Consensual Sexual Intercourse violations to be the most serious, and therefore typically imposes the most severe sanctions, including suspension or permanent suspension for students and termination for employees. However, Rose-Hulman reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension /termination, for any act of sexual misconduct or other gender-based offenses, including intimate partner or relationship (dating and/or domestic) violence, non-consensual sexual contact and stalking based on the facts and circumstances of the particular complaint. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation and/or gender identity of those involved. Violations include:

i. Sexual Harassment (as defined in section b above)

ii. Non-Consensual Sexual Intercourse

Defined as:

- any sexual penetration or intercourse (anal, oral or vaginal)
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact.

iii. Non-Consensual Sexual Contact⁴

Defined as:

- any intentional sexual touching
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

³ Some examples of possible Sexual Harassment include:

- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- Explicit sexual pictures are displayed in a professor's office or on the exterior of a residence hall door.
- A professor engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend.
- Students repeatedly make jokes about another student's sexuality or gender.

⁴ The state definition of sexual battery states that the crime is committed when: "A person who, with intent to arouse or satisfy the person's own sexual desires or the sexual desires of another person: (1) touches another person when that person is: (A) compelled to submit to the touching by force or the imminent threat of force; or (B) so mentally disabled or deficient that consent to the touching cannot be given; or (2) touches another person's genitals, pubic area, buttocks, or female breast when that person is unaware that the touching is occurring." The level of the felony is increased if "(1) it is committed by using or threatening the use of deadly force; (2) it is committed while armed with a deadly weapon; or (3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug or controlled substance or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge." This definition is applicable to criminal prosecutions for sexual battery in Indiana, but may differ from the definition used on campus to address policy violations.

Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

iv. Sexual Exploitation

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed)
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent)
- Prostitution
- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection, and further includes administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent

v. Consent

Consent is knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.

A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the individual responding party of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other.

Incapacitation is defined as 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, involuntary physical restraint and/or from the taking of incapacitating drugs.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not consent. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.

In Indiana, a minor (meaning a person under the age of 16 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 16 years old may be a crime, as well as a violation of this policy, even if the minor wanted to engage in the act.

vi. Notice of Relationships with Supervisors

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy. Rose-Hulman does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of Rose-Hulman. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift a party out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes Resident Assistants and students over whom they have direct responsibility. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required may result in disciplinary action for an employee.

4. Other Prohibited Actions

In addition to the forms of sexual misconduct described above, the following behaviors are also prohibited as forms of discrimination when the act is based upon the reporting party's actual or perceived membership in a protected class.

- 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, limit or deny other members of the community of educational or employment access, benefits or opportunities.
- 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 university community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy).
- Bullying, defined as repeated and/or severe aggressive behavior, likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally.
- Intimate partner violence, defined as violence or abuse between those in an intimate interaction and/or relationship to each other (such as physical violence or psychological or emotional abuse between individuals in a relationship).
- Stalking, defined as course of conduct directed at a specific person, on the basis of actual or perceived membership in a protected class, that is unwelcome and would cause a reasonable person to feel fear or to suffer substantial emotional distress.

Sanctions for the above-listed "Other Prohibited Actions" behaviors range from reprimand through expulsion (students) or termination of employment.

5. Retaliation

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing a complaint or for assisting in providing information relevant to a claim of harassment is a serious violation of Rose-Hulman policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator(s) or to a member of the Equity Resolution Panel and will be promptly investigated. Rose-Hulman is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

6. Remedial Action

Rose-Hulman will implement initial remedial and responsive and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination. Such actions could include but are not limited to: no contact orders, providing counseling and/or medical services, academic support, living arrangement adjustments, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and community support resources.

Rose-Hulman will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor who has been found to engage in harassing or discriminatory behavior or retaliation. Procedures for handling reported incidents are fully described below. Deliberately false and/or malicious accusations of harassment, as opposed to complaints which, even if erroneous, are made in good faith, are just as serious an offense as harassment and will be subject to appropriate disciplinary action.

7. Confidentiality and Reporting of Offenses Under This Policy

A party bringing a complaint is encouraged to speak to Rose-Hulman officials, such as the Title IX Coordinator(s), ERP members, Dean of Students, Dean of Student Affairs, or Public Safety Officers to make formal reports of incidents of sexual misconduct. A party bringing a complaint has the right, and can expect, to have complaints taken seriously by Rose-Hulman when formally reported, and to have those incidents investigated and properly resolved through these procedures. Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigators, witnesses, and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a party bringing a complaint's rights and privacy.

All Institute employees (faculty, staff, administrators, resident assistants, sophomore advisors) are expected to report actual or suspected discrimination or harassment to the Title IX Coordinators. Individuals should be aware of this reporting requirement when making a report. Institute employees may make an initial report to the Title IX Coordinators without divulging personally identifiable information, if there is no risk for the safety of the student or the Rose-Hulman community. If there is such a risk, the Institute employee will be required to provide personally identifiable information, even without the consent of the individual. If personally identifiable information is shared, it will be shared with as few people as possible and all efforts will be made to protect privacy to the greatest possible extent. If a reporting party is unsure of someone's duties and ability to maintain privacy, ask them before talking to them.

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- On-campus professional counseling services (Counseling Services);
- On-campus health service providers and staff (Health Services Office); or
- Off-campus resources, such as licensed professional counselors, local rape crisis counselors, domestic violence resources, local or state assistance agencies, or clergy/chaplains.

Campus counselors are available to help students free of charge and can be seen on an emergency basis during normal business hours and will submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to the student. Additionally safe and anonymous reports, which do not trigger investigations, can be made by victims and/or third parties using the reporting form posted at www.rose-hulman.edu/incident_report_form.

8. Federal Timely Warning Obligations

Victims of sexual misconduct should be aware that Rose-Hulman administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. Rose-Hulman will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

This policy was implemented in July 2014.

This policy was updated/revised in March 2018.