

CAMPUS SaVE ACT AND VAWA

The Campus SaVE Act and VAWA require that there be definitions and clear procedures in place to address sexual harassment and sexual violence, including instructions on what an individual should do if they experience this conduct.

Sexual Violence and Harassment

Reading Area Community College's College Student Expectations, contained in the Student Handbook, prohibits sexually violent acts, referenced together as "Sexual Misconduct." These acts may constitute crimes as well. Sexual Misconduct includes: sexual violence; intimate partner violence, sex/gender-based stalking; and sexual harassment. While RACC may utilize different standards and definitions than the Pennsylvania Crimes Code, Sexual Misconduct often overlaps with crimes of rape, sexual assault, sexual harassment, stalking, dating violence and domestic violence.

In an effort to reduce the risk of Sexual Misconduct as well as the crimes of rape, sexual assault, sexual harassment, stalking, and intimate partner violence within the RACC community, RACC utilizes a range of campaigns, strategies, and initiatives to increase awareness and risk reduction, and provide educational and prevention programming.

It is the policy of RACC to offer programming regarding the prevention and reduction of Sexual Misconduct and Sex/Gender discrimination each year. Educational programs are offered to raise awareness for all incoming students and employees, and are often conducted during new student and new employee orientation and throughout an incoming student's first semester. Throughout the year, ongoing awareness and prevention campaigns are directed to students and employees, including faculty, often taking the form of campaigns, emails, guest speakers, programs, and events. These programs and others offered throughout the year include strong messages regarding not just awareness, but also primary prevention (including normative messaging, environmental management, and bystander intervention), and discuss institutional policies on Sex/Gender discrimination, Sexual Misconduct, and Pennsylvania definitions of domestic violence, dating violence, sexual assault, stalking, and consent in the context of sexual activity. Bystander engagement is encouraged through safe and positive intervention techniques and by empowering third-party intervention and prevention such as calling for help, using intervention-based apps, identifying allies, and/or creating distractions. Programs also offer information on risk reduction that strives to empower individuals without "victim-blaming," including how to recognize warning signals and how to avoid potential Sexual Misconduct.

RIGHTS AND OPTIONS IN THE EVENT OF SEXUAL VIOLENCE

In the event that any type of Sexual Misconduct does occur, RACC takes the matter very seriously. RACC employs interim protection measures such as interim suspension and/or no contact orders in reports where a student's behavior represents a risk of violence, threat, pattern or predation. If a student is accused of Sexual Misconduct or any other type of Sex/Gender discrimination, the reported conduct will be investigated in accordance with the policies in the student handbook. Anyone wishing to officially report such an incident may do so by contacting Lizette Flowers, Title IX Coordinator, Yocum Library – Room 306, 10 South Second Street, P.O. Box 1706, Reading, PA

19603, (610) 372-4721 ext. 5005 (phone), (610) 372-4264 (fax), or e-mail to lfowers@racc.edu. Anyone with knowledge about any form of Sexual Misconduct is encouraged to report it immediately.

If you have experienced any form of Sexual Misconduct, some or all of these safety suggestions may guide you after an incident has occurred:

1. Go to a safe place and speak with someone you trust. Tell this person what happened. If there is any immediate danger, call 9-1-1 and then contact Security at (610) 607-6291 if you are on campus.
2. Consider securing immediate professional support (e.g.: counseling, victim advocacy, medical services, etc.) to assist you in the crisis.
3. If you are on campus during regular business hours, you may go to Counseling and Student Support in the Center for Academic Success in Berks Hall, Room 209 for counseling services - this is a confidential resource.
4. For your safety and well-being, immediate medical attention is encouraged. Being examined as soon as possible, ideally within 120 hours, is important in the case of rape or sexual assault. The hospital will arrange for a specific medical examination at no charge. To preserve evidence, it is recommended that you do not bathe, shower, douche, eat, drink, smoke, brush your teeth, urinate, defecate or change clothes before receiving medical attention. Even if you have already taken any or all of these actions, you are still encouraged to have prompt medical care, and evidence may still be recoverable. Typically, if police are involved or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. They will gather bedding, linens or unlaundered clothing and any other pertinent articles that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transmission of items of evidence, such as to the hospital, secure them in a clean paper bag or clean sheet, to avoid contamination. If you have physical injuries, photograph or have them photographed, with a date stamp on the photo. Record the names of any witnesses, and their contact information. This information may be helpful to the proof of a crime, to obtain an order of protection, or to offer proof of a campus policy violation. Try to memorize details (physical description, names, license plate number, car description), or even better, write notes to remind you of details, if you have time and the ability to do so. If you obtain external orders of protection (e.g. restraining orders, injunctions, protection from abuse order), please notify Security or the campus Title IX Coordinator so that those orders can be observed on campus.
5. Even after the immediate crisis has passed, consider seeking support from Counseling and Student Support, and/or Berks Women in Crisis, located at 255 Chestnut St., Reading, PA 19601, Business Phone: (610) 373-1206 Hotline:(610) 372-9540 or 7463
6. Contact Lizette Flowers, Title IX Coordinator, Yocum Library – Room 306, 10 South Second Street, P.O. Box 1706, Reading, PA 19603 (610) 372-4721 ext. 5005 (phone), (610) 372-4264 (fax), or e-mail to lfowers@racc.edu if you need assistance with RACC-related concerns, such as no-contact orders or other protective measures or accommodations. The Title IX Coordinator will also assist in any needed advocacy for students who wish to obtain protective or restraining orders from local authorities. Depending on the situation, RACC offers reasonable academic accommodations, including changes to living arrangements, transportation accommodations,

escorts, no contact orders, counseling services access, and other supports and resources as needed by an individual who has experienced Sexual Misconduct, at no charge to the individual.

Definitions

Sex Discrimination is an adverse action taken against an individual because of their gender or sex (whether biological, identity, or expression). It includes sexual harassment, sexual violence, non-consensual sexual contact, non-consensual sexual intercourse, intimate partner violence, and stalking.

Sexual Harassment is unwelcome verbal, non-verbal, or physical conduct of a sexual nature, including unwelcome sexual advances and requests for sexual favors, and other conduct when:

1. Submission to such advances, requests or conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement or participation in College programs or activities, or is used as a basis for employment or academic decisions affecting the individual; or
2. Rejection of such advances, requests or conduct affects a term or condition of an employment or academic advancement or participation in College programs or activities, or is used as a basis for employment or academic decisions affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work, academic performance, education, or participation in College programs or activities, or of creating an intimidating, hostile, work or academic environment.

Sexual Violence includes physical sexual acts, such as rape, sexual assault, intimate partner violence, and stalking (when based on gender or sex) perpetrated against an individual without their consent, or against an individual who is incapable of giving consent due to that individual's use of drugs or alcohol, status as a minor, and/or physical/mental disability. Sexual violence may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication). Any individual, of any sex or gender identity, may experience these forms of sexual violence.

Domestic Violence is a form of violence in the form of abuse committed against someone who is a current or former spouse or intimate partner, a person with whom a person cohabitates or has cohabitated, or a person with whom one has a child.

Dating Violence is a form of violence and is abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature. This may include someone that the complainant has just met, i.e., at a party, introduced through a friend, or online.

Stalking occurs when a person either:

a) engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or

b) engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

Rape is generally defined as forced sexual intercourse. It may also include situations where an individual is incapable of giving consent due to incapacitation by means of disability or alcohol or other drugs. Under Pennsylvania law, “rape” is defined as sexual intercourse:

- (1) By forcible compulsion.
- (2) By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.
- (3) Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.
- (4) Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.
- (5) Who suffers from a mental disability which renders the complainant incapable of consent.

Sexual Assault is a non-consensual sexual act involving psychological manipulation, physical force, or coercion.

Other Sexual Offenses include, but are not limited to: forced anal intercourse, forced oral-genital contact, forced penetration by a foreign object, including a finger; and indecent assault (the unwanted touching of an intimate part of another person for the purpose of sexual arousal).

Consent

Consent to engage in sexual activity must be knowing and voluntary; it must exist from the beginning to end of each instance of sexual activity and for each form of sexual contact. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. Consent is active, not passive.

A. Guidance for Consent:

- Consent to one form of sexual activity does not constitute consent to engage in all forms of sexual activity.
- Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of resistance,

or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.

- When consent is requested verbally, absence of any explicit verbal response constitutes lack of consent. A verbal “no” constitutes lack of consent, even if it sounds insincere or indecisive.
- If at any time during the sexual activity, any confusion or ambiguity arises as to the willingness of the other individual to proceed, both parties should stop and clarify verbally the other’s willingness to continue before continuing such activity.
- Either party may withdraw consent at any time. Withdrawal of consent should be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.
- Individuals with a previous or current intimate relationship do not automatically give either initial or continued consent to sexual activity. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity.
- Consent is not effective if it results from the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual’s ability to exercise her/his own free will to choose whether or not to have sexual contact.

B. Force

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.

C. Coercion

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. Examples of coercion include threatening to “out” someone based on sexual orientation, gender identity, or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity.

D. Incapacitation

An individual who is incapacitated does not have the ability to make informed, rational judgments and cannot give consent to engage in sexual activity. Incapacitation is defined as the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, is asleep, is unconscious, or is otherwise unaware that sexual activity is occurring. Incapacitation may result from the use of alcohol and/or drugs. Incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and other drugs varies from person to person. However, warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness, and/or emotional volatility.

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects/affected an individual's:

- decision-making ability;
- awareness of consequences;
- ability to make informed judgments; or
- capacity to appreciate the nature and the quality of the act.

Evaluating incapacitation also requires an assessment of whether a respondent should have been aware of the complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the respondent's position.

E. Alcohol or Other Drugs

Alcohol and drugs impair a person's decision-making capacity, awareness of 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 individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual harassment, misconduct, or intimate-partner violence and does not diminish one's responsibility to obtain informed and freely given consent.

F. Intimate Partner Violence

Intimate-partner violence, which includes dating violence, domestic violence, and relationship violence, includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, domestic, or other intimate relationship with that person. It may involve one act or an ongoing pattern of behavior. Intimate-partner violence can encompass a broad range of behavior, including, but not limited to, physical violence, sexual violence, emotional violence, and economic abuse. Intimate-partner violence may take the form of threats, assault, property damage, or violence or threat of violence to one's self, one's sexual or romantic partner, or to the family members or friends of the sexual or romantic partner. Intimate-partner violence affects individuals of all genders, gender identities, gender expressions, and sexual orientations and does not discriminate by racial, social, or economic background.

RACC does not tolerate intimate partner violence of any form. For the purposes of this policy, RACC does not define intimate partner violence as a distinct form of misconduct. Rather, RACC recognizes that sexual harassment, sexual assault, sexual exploitation, physical assault, intimidation, stalking, and retaliation may all be forms of intimate partner violence when committed by a person who is or has been involved in a sexual, dating, or other social relationship of a romantic or intimate nature with the complainant.

Sexual Harassment Policy

Sexual harassment is a form of misconduct that undermines the integrity of the academic environment. It is the policy of RACC that sexual harassment is prohibited. All members of RACC community, especially officers, faculty and other individuals who exercise supervisory authority, have an obligation to promote an environment that is free of sexual harassment. Sexual harassment includes unwelcome sexual advances and/or touching, slurs, epithets, derogatory comments, unwelcome jokes, teasing, and other similar verbal or physical conduct.

Any complaints or inquiries regarding sexual harassment should be brought to the immediate attention of the Title IX Coordinator. RACC will investigate such claims promptly and thoroughly. If, for any reason, any individual wishes to complain or inquire regarding sexual harassment, but feels it would not be appropriate to raise such issues with the person named above, the individual may inquire or complain to the Dean of Student Affairs, the Director of Human Resources any Assistant Division Deans, or any officer of RACC at the level of Vice President or above, and such inquiries or complaints will receive a prompt and thorough investigation. Disciplinary action for violations of this policy can range from verbal or written warnings, up to and including immediate termination from employment, suspension, or dismissal from RACC.

Campus Procedures for Addressing Sexual Misconduct, Intimate Partner Violence, Stalking, Sexual Harassment and other acts of sex and gender discrimination.

If it is determined that an act of Sexual Misconduct or sex/gender discrimination has occurred, sanctions range from warnings through expulsion. Serious and violent incidents and acts of non-consensual sexual intercourse (the policy equivalent to the crime of rape) usually result in suspension, expulsion, or termination of employment.

Procedurally, when RACC receives a report of Sexual Misconduct and/or sex/gender discrimination, the campus Title IX Coordinator is notified. If the complainant wishes to access local community agencies and/or law enforcement for support, RACC will assist the individual in making these contacts. The Title IX Coordinator will offer assistance to the individual in the form of appropriate interim or long-term measures such as opportunities for academic accommodations, changes in housing for the complainant or the responding student, visa and immigration assistance, changes in working situations and other assistance as may be appropriate and available on campus or in the community (such as no contact orders, campus escorts, transportation assistance, etc). If the complainant so desires, they will be connected with a counselor on- or off-campus, as well as an on- or off-campus victim's advocate. No formal report is required to take advantage of these services and resources, but RACC provides them in the hopes of offering help and support without condition or qualification. A summary of rights, options, supports and procedures, in the form of this document, is provided to all complainants, whether they are a student, employee, guest or visitor.

When appropriate upon receipt of notice, the Title IX Coordinator will cause a prompt, fair, thorough, and impartial process to be initiated, commencing with an investigation that utilizes the preponderance of evidence (i.e. more likely than not) standard of proof. More details regarding the investigation and resolution processes of the can be found online here: <https://www.racc.edu/sites/default/files/title-ix/RACC-Title-IX-Policy-10-07-2024.pdf>.

The Coordinator is ultimately responsible to ensure that RACC acts to promptly and thoroughly investigate the reported behavior, bring it to an end, prevent its recurrence, and remedy its effects on the complainant and the RACC community. The Coordinator is also responsible to ensure that training is conducted annually for all advocates, investigators, hearing officers, panelists and appeals officers that includes training on a resolution process that protects the rights of both parties and promotes accountability. Training will focus on all forms of Sexual Misconduct, sex/gender discrimination, and retaliation that are covered by Title IX and Clery Act. Training will help those involved in the process protect the rights of both parties and promote a thorough and impartial process.

The investigation and records of the resolution process conducted by RACC are maintained confidentially. Information is shared internally between administrators who need to know, but a tight circle is kept. Where information must be shared to permit the investigation to move forward, the person bringing the accusation will be informed. Privacy of the records specific to the investigation are maintained in accordance with Pennsylvania law and the federal FERPA statute. Any public release of information to comply with the open crime logs or timely warning provisions of the Clery Act will not release the names of complainants or information that could easily lead to a complainant's identification. Additionally, RACC maintains privacy in relation to any accommodations or protective measures afforded to a complainant, except to the extent necessary to provide the accommodations and/or protective measures.

In any complaint of Sexual Misconduct or conduct constituting sex/gender discrimination covered under Title IX, the person reporting the conduct and the responding party are entitled to the same opportunities for a support person or advisor of their choice throughout the process, including any meeting, conference, hearing or other procedural action. Once the investigation is complete, the parties will be informed, in writing, of the outcome, including the finding, the sanctions (if any) and the rationale therefor. Delivery of this outcome to the parties will occur without undue delay between notifications. All parties will be informed of applicable appeal processes, and their rights to exercise a request for appeal. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing, and will be notified when the results of the resolution process become final.