

Policy Against Sex-Based Discrimination

I. Introduction

The University of Rio Grande and Rio Grande Community College (“Rio Grande”) are dedicated to providing a safe environment for all students, faculty, and staff. Sex-based discrimination, including sex-based harassment, will not be tolerated. Any violation of the policies below should be reported to the Title IX Compliance Coordinator at TitleIXCoordinator@rio.edu or (740) 245-7228.

II. Policy

No person shall be subjected to sex-based discrimination under any program or activity operated by Rio Grande.

No person may engage in sex-based harassment that creates a hostile environment in or under any program or activity of Rio Grande.¹

No person who is an employee or agent of Rio Grande (including a student employee) may condition a decision or benefit on another’s submission to sex-based harassment (regardless of whether the target resists or submits, and regardless of whether the target suffers or avoids the threatened harm).

III. Definitions

Sex-based discrimination includes exclusion from participation in, being denied the benefits of, or being subjected to discrimination on the basis of sex.

Discrimination on the basis of sex includes discrimination based on sex, pregnancy status, marital status, sexual orientation, gender, gender identity, gender expressions, and nonconformity with gender stereotypes.

Both students and employees are protected against sex-based discrimination in Rio Grande programs and activities.

Program or activity includes all operations of Rio Grande, including but not limited to, access to classes, employment opportunities, housing, Rio Grande-sponsored athletics, and facilities.

Sex-based harassment includes sexual harassment and gender-based harassment.

Sexual harassment is unwelcome conduct of a sexual nature.

Sexual harassment includes but is not limited to unwelcome verbal sexual advances, sexual touching, requests for sexual favors, or other verbal or nonverbal conduct of a sexual nature, or rape, sexual assault, or sexual exploitation. Sexual harassment also includes dating violence, domestic violence, and stalking.

¹ Rio Grande respects the First Amendment rights of its students, faculty, and staff. The Policy Against Sex-Based Discrimination prohibits only sex-based harassment that creates a hostile environment. Nothing in this policy will impair the exercise of rights protected under the First Amendment.

Gender-based harassment is unwelcome conduct based on a student's actual or perceived sex or sexual orientation and includes but is not limited to unwelcome conduct based on gender identity, gender expression, and nonconformity with gender stereotypes.

Unwelcome conduct exists when the individual did not request or invite it and considers the conduct undesirable or offensive, including but not limited to name-calling, graphic or written statements (including through the use of cell phones or the internet), or other conduct that may be physically threatening, harmful, or humiliating. Unwelcome conduct does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.

Participation in the conduct or failure to protest does not necessarily mean that the conduct is welcome. The fact that an individual may welcome some conduct does not necessarily mean that he or she welcomes other conduct. Additionally, the fact that an individual requested or invited conduct on one occasion does not necessarily mean that the conduct is welcome on another occasion.

A **hostile environment** exists when sex-based harassment is sufficiently serious to deny or limit an individual's ability to participate in or benefit from Rio Grande programs or activities.

A hostile environment can be created by anyone involved in a Rio Grande program or activity, including but not limited to administrators, faculty members, students, and campus visitors.

In determining whether sex-based harassment has created a hostile environment, it will be necessary, but not enough, that the conduct was unwelcome to the individual harassed. To find that conduct created or contributed to a hostile environment, the investigating Title IX Compliance Team member or hearing officials, as the case may be, will also need to find that a reasonable person in the student's or employee's position would have perceived the conduct as undesirable or offensive. The Title IX Compliance Team member or hearing officials, will consider a variety of factors related to the severity, persistence, or pervasiveness of the alleged sex-based harassment, including the type, frequency, and duration of the conduct, the identities and relationships of all persons involved, the number of persons involved, and the context in which the conduct occurred. For instance, a single incident of sexual assault may be sufficient to create a hostile environment, whereas a series of less severe incidents may be necessary to create a hostile environment.

Sexual assault is actual or attempted sexual contact with another person without that person's consent, including but not limited to:

- Intentional touching of another person's intimate body parts without that person's consent;
- Other intentional sexual contact with another person's body without that person's consent;
- Coercion, forcing, or attempting to coerce or force a person to touch another's intimate body parts without that person's consent; or
- Rape, which is penetration of any degree of the vagina or anus of a person by any body part of another or by an object or the mouth of a person by a sex organ of another without that person's consent.

Consent is agreement to do or allow something, or permission for something to happen or be done. Consent must be informed, voluntary, and mutual. Consent may be withdrawn at any time.

Consent does not exist when there is *any* expressed or implied force, coercion, intimidation, threats, or duress. Whether a person has taken advantage of a position of influence over another person may be a factor in determining whether consent exists.

Silence or absence of resistance does *not* imply consent. Past consent to sexual activity with another person does *not* imply ongoing future consent with that person, or ongoing future consent to that same sexual activity with another person.

Consent cannot be given by a person who is unable to make a reasonable judgment concerning the nature of an activity due to incapacitating intoxication, unconsciousness, youth, or mental deficiency or incapacity.

Sexual exploitation occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's consent, including but not limited to:

- Prostituting another person;
- Recording images, whether still or moving, or audio of another person's sexual activity, intimate body parts, or nudity without that person's consent;
- Distributing images, whether still or moving, or audio of another person's sexual activity, intimate body parts, or nudity, if the person distributing the images or audio knows or should have known that the person depicted did not consent to the distribution of those materials; and
- Viewing another person's sexual activity, intimate body parts, or nudity in a place where that person has a reasonable expectation of privacy and without that person's consent.

IV. Reporting and Confidentiality

A. Reporting to Rio Grande Employees

Students and employees are encouraged to report any violation of the Policy Against Sex-Based Discrimination. Reporting these incidents will help a person find useful resources and will help Rio Grande respond appropriately to violations of our policies. Different members of the campus community have different abilities to maintain confidentiality.

- Some employees are required to maintain near-complete confidentiality. Communications with these employees are "privileged communications."
- Other employees may speak to individuals in confidence, but are required to report that an incident occurred to the Title IX Compliance Coordinator. This report does not have to reveal any personally identifying information about the individual. Disclosures to these employees will not trigger an investigation against a person's wishes.
- Some employees are required to report all details of an incident to the Title IX Compliance Coordinator. Any disclosure to these employees, called "responsible employees," constitutes a report to Rio Grande and will trigger an investigation into the incident.

These groups are listed in detail below so that individuals can make an informed decision about where to turn if needed.

1. Privileged and confidential communications

a) Professional and Pastoral Counselors

Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the Rio Grande community (including any individual who provides mental-health counseling under the supervision of a licensed counselor) are not required to report any information about an incident without an individual's permission. Those individuals include:

<i>Coordinator of Accessibility</i>	(740) 245-7439
<i>Chaplaincy Program (on-campus Pastoral Counseling)</i>	(740) 245-7339
<i>Woodland Centers (local off-campus counseling agency)</i>	(740) 441-4400

Note that while professional and pastoral counselors may maintain an individual's confidentiality within Rio Grande, they may be subject to other reporting obligations under state law.

b) Non-Professional Counselors and Advocates

Individuals who work or volunteer in the on-campus Health Services Center, including front-desk staff and student-employees, can generally talk to students without revealing any personally identifying information about the student to Rio Grande. Students can seek assistance and support from these individuals without triggering a Rio Grande investigation that could reveal a person's identity or reveal that an individual has disclosed the incident.

While maintaining confidentiality, these individuals (or their office) must report the nature, date, time, and general location of an incident to the Title IX Compliance Team. This limited report – which includes no information that would identify an individual – will help the Title IX Compliance Team stay informed of the extent and nature of potential violations occurring on- and off- campus, track potential patterns of inappropriate conduct, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Compliance Team, these individuals will consult with the person to ensure that no personally identifying details are shared. Non-professional counselors and advocates include:

<i>Director of Health Services</i>	(740) 245-7389
<i>Administrative Assistant to Student Services</i>	(740) 245-7350

If you speak to a professional or non-professional counselor or advocate, please understand that, if you want to maintain confidentiality, Rio Grande will be unable to conduct an investigation into the incident and will be unable to pursue any disciplinary action against the alleged actor. These counselors and advocates will still help you receive other necessary protection and support, including victim advocacy, academic support or accommodations, health and mental health services, and changes to your work or course schedule.

Note that while non-professional counselors and advocates may maintain your confidentiality within Rio Grande, they may be subject to other reporting obligations under state law.

2. Responsible Employees.

A "responsible employee" is a Rio Grande employee who has the authority to redress violations of the Policy Against Sex-Based Discrimination, has the duty to report incidents of violations, or who may reasonably be assumed to have this authority or duty (except non-professional counselors and advocates).

When you tell a responsible employee about a violation of the Policy Against Sex-Based Discrimination, you have the right to expect that Rio Grande will take immediate and appropriate steps to investigate the incident and resolve the matter promptly and equitably.

A responsible employee must report to the Title IX Compliance Coordinator all relevant details that may be helpful in determining what happened – including the names of individuals involved, any witnesses, and other relevant facts including the date, time, and location of the incident.

To the extent possible, information reported to a responsible employee will be shared only with those responsible for handling Rio Grande's response to the report. A responsible employee should not share information with law enforcement without your consent unless you have also reported the incident to law enforcement. Responsible employees include the following:

All Faculty and Staff not previously listed as Professional or Pastoral Counselors (1a) OR Non-Professional Counselors or Advocates (1b) above.

Before you reveal any information to a responsible employee, the employee should make you aware of his or her reporting obligations. If you wish to maintain confidentiality, the employee should direct you to confidential resources.

B. Requesting Confidentiality.

Rio Grande has an obligation to provide a safe, non-discriminatory environment for all students – including you. **No Rio Grande employee will pressure you to release more or less information than you are comfortable with.** If you would like to make a full report and also request confidentiality, please be aware that Rio Grande may not be able to fully honor that request.

The Title IX Compliance Coordinator will evaluate requests for confidentiality. Where feasible, Rio Grande will honor your request for confidentiality. Please know that honoring your request may limit Rio Grande's ability to conduct a thorough investigation or pursue disciplinary or remedial action. Although rare, there are times when Rio Grande may not be able to honor your request and still maintain our obligation to provide a safe campus for everyone. If the Title IX Compliance Coordinator determines that your confidentiality cannot be maintained, we will inform you prior to starting any investigation and will, to the extent possible, only share information with people responsible for handling Rio Grande's response. You will never be required to participate in any investigation or grievance proceeding.

C. Interim Measures and Protection Against Retaliation.

Rio Grande will remain mindful of your well-being. We will take ongoing steps to protect you from retaliation or harm and will work with you to create a safety plan. Retaliation, whether by students or employees, will **not** be tolerated. Throughout any investigation, Rio Grande will also:

- Assist you in accessing available advocacy resources, academic support, counseling, health services, and legal assistance;
- Provide security and support, which may include issuing a no-contact order and arranging a change of living or working arrangements or course schedules; and
- Assist you if you wish to report a crime to law enforcement.