



**New Jersey Institute of Technology
University Policies and Procedures**

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Subject: Sexual Misconduct Policy for Students

1. POLICY

NJIT is an institution of higher education and a community dedicated to learning and the advancement of knowledge. NJIT expects and requires the behavior of its students, faculty, staff, officials, vendors, visitors and anyone else with a direct link to NJIT to be compatible with its high standards of scholarship and conduct. NJIT is committed to protecting the university community, the rights of its members, and to cultivating and sustaining a positive living and learning environment for all students. Thus, NJIT does not discriminate on the basis of sex in its educational programs and does not tolerate inappropriate behaviors that compromise our constituents' ability to pursue their legitimate activities. These inappropriate behaviors include specifically sexual misconduct, domestic violence, dating violence and stalking.

The U.S. Department of Education, and its Office for Civil Rights (OCR), emphasizes the importance of providing all students with an educational environment free from discrimination. Sexual misconduct of students interferes with students' rights to receive an education free from discrimination and, in some instances, may be a crime. Title IX of the Education Amendments of 1972 (Title IX) and corresponding regulations, prohibit discrimination on the basis of sex and/or gender in educational programs or activities operated by recipients of Federal financial assistance. In addition, NJIT is committed to compliance with other corresponding legislation, including the Clery Act, the Violence Against Women Act, and the Campus Sexual Violence Elimination Act.

This policy applies to (1) students, faculty, staff, officials, vendors, visitors and anyone else with a direct link to NJIT; (2) the conduct listed below; and (3) all NJIT locations, including off campus locations wherein NJIT programs and/or activities occur.

In compliance with the Clery Act, NJIT publishes an Annual Security Report every October. The current report can be found on the NJIT Public Safety's website, <http://www.njit.edu/publicsafety/>.

NJIT will make available to students and employees ongoing training and other educational opportunities regarding the prevention of sexual misconduct, domestic violence, dating violence, and stalking. Specific training programs will be identified that will focus on Title IX and corresponding legislation.

NJIT takes any violation of sexual misconduct, domestic violence, dating violence, and stalking very seriously. A student who violates this policy will be subject to disciplinary action as outlined in the NJIT Code of Student Conduct, which includes expulsion. Employees who violate this policy with respect to students are subject to discipline up to and including termination. NJIT strictly prohibits retaliation against anyone who has reported an allegation of sexual misconduct, domestic violence, dating violence and/or stalking or who has assisted or cooperated in an investigation into the allegation.

2. DEFINITIONS

A. Sexual Misconduct

1. Sexual Harassment

Sexual harassment is a form of gender-based discrimination which violates Federal and State law as well as NJIT policy prohibiting discrimination on the basis of gender. Sexual harassment is unwelcome conduct that occurs based on a person's sex or gender and that is severe or pervasive that it unreasonably interferes with an individual's educational performance, or creates an intimidating, hostile or offensive educational environment.

Sexual harassment occurs when any one of the following conditions is present:

- a. Submission to or rejection of such conduct is made explicitly or implicitly a term or condition of an individual's educational opportunity.
- b. Submission to or rejection of such conduct is used as the basis for determining academic performance, evaluation, grades, advancement or continuation as a student.
- c. Such conduct that has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile or offensive academic, educational or living environment.
- d. Prohibited conduct includes deliberate, repeated, unsolicited verbal comments; physical gestures or actions of a sexual or physical nature; and solicitations for sexual favors.

2. Sexual Violence

Sexual violence takes many forms including sexual assault or attempted sexual assault, as well as any unwanted sexual contact or threats, and may additionally constitute a crime under the New Jersey Criminal Code.

Sexual assault is an actual, attempted, or threatened sexual act committed through force, threat, or intimidation with another person without that person's consent. Sexual assault occurs when one person penetrates, attempts to penetrate, or threatens to penetrate the