



Silence or lack of resistance, in and of itself, does not demonstrate consent. This definition does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act;

Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol;

Consent may be initially given but withdrawn at any time;

Consent cannot be given when a person is incapacitated (as hereafter described);

Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm; and

When consent is withdrawn or can no longer be given, sexual activity must stop.

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- Stalking - Stalking refers to engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her own safety or the safety of others, or to suffer substantial emotional distress (i.e., significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling). Such a course of conduct means two or more acts, including, but not limited to, any actions directed at another person, whether done directly, indirectly or through others, via the telephone, electronic devices or any other means of communication, to follow, monitor, observe, surveil, threaten, or communicate to or about a person or interfere with the person's property. Stalking may include contact through a third party.

Examples of conduct that may constitute prohibited stalking include, but are not limited to: unwelcome/unwanted communications of any type, including face-to-face, telephone calls, voice messages, e-mail, text messages, postings, written letters or notes and unwanted gifts; use of threatening words or conduct; pursuing or following; observing and/or surveillance; trespassing or vandalism; entering or remaining on or near a person's property, residence, classroom, place of employment or any other location where the person is present; interfering with or damaging a person's property, including pets; and engaging in other unwelcome contact.

**Do's:**

- Remind friends that affirmative consent is required and it is the difference between sex and sexual assault and that someone can be too intoxicated to consent.
- Take the initiative to help friends who aren't thinking clearly from becoming targets of violence (or) take steps to stop a friend who chooses to use violence.
- When possible, prevent an intoxicated friend/person from going to a private location with an acquaintance or friend.
- Contact the Security Department or another person of authority who can assist.

**Don'ts:**

- Let friends engage in activities, such as excessive alcohol/drug consumption, that impedes judgement and that therefore could lead to actions, including sexual advances, that are unwelcome and/or endanger the rights, safety, and well-being of others.
- Let friends walk/run alone in secluded areas or at night.
- Leave a friend or acquaintance alone at a party.
- Leave residence hall doors unlocked.
- Let friends drink to the point of impairment.
- Place yourself in a vulnerable situation where you are unable to voice consent.

**4) COMPLAINT REPORTING PROCEDURES & GUIDELINES**

Complaints may be reported by the victim or by anyone else who has knowledge of sexual misconduct in violation of this Policy. Anyone who wishes to initiate a complaint may do so by contacting any of the following:

- 1) The Administrative Dean of RIETS:

Rabbi Dr. Yosef Kalinsky  
 Max and Marion Grill Administrative Dean, RIETS  
 646-592-4068  
 kalinsky@yu.edu

- 2) Security Department  
<http://yu.edu/safety-security/>  
Wilf Campus Security Department – (646) 592-4477– security@yu.edu

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## **7) REQUEST BY COMPLAINANT NOT TO PURSUE INVESTIGATION**

A complainant may decide after filing a complaint that he/she does not want to have RIETS pursue an investigation. Complainants and others should understand that compliance with such a request may limit RIETS' ability to take action in response to the complaint. In such a situation, RIETS will evaluate the request in the context of RIETS' responsibilities and will consider several factors, including the seriousness of the alleged misconduct, the complainant's age, whether a weapon or force was involved, the parties involved, whether there have been other complaints of misconduct against the respondent, and the applicability of laws mandating an investigation or other action. See **Section 15** for information regarding confidential support services.

## **8) DOCUMENTATION OF INVESTIGATIONS**

The Administrative Dean of RIETS will maintain records of all complaints, investigations, findings (including the basis for those findings), hearings (if applicable), and appeals, and, promptly following the final resolution of a complaint, the Administrative Dean of RIETS will provide a copy of these records to the Office of the General Counsel. All of these records will be kept on file in accordance with RIETS' records and retention policy (but in any event for at least five years from final resolution of the complaint). The Administrative Dean of RIETS (or his designee) will simultaneously notify the parties as soon as practicable of the final outcome of the investigation in writing (including referral to the hearing officer where applicable) and also will notify them of any sanctions to be imposed (including actions RIETS will take to eliminate the hostile environment and prevent recurrence). (See **Appendix A**, Resolution Process). In addition, if someone other than the Administrative Dean of RIETS engaged in the investigation, the Administrative Dean of RIETS will be kept apprised of the progress of the investigation and the ultimate results, and the Administrative Dean of RIETS will maintain records of the results. The Administrative Dean of RIETS also will inform the Registrar if any transcript notations are required. (See **re0.004 Tw 0.-4 (n)TJ6-**

### **Complainant Request for Confidentiality**

RIETS will attempt to comply with all requests from a complainant that his/her name or identity not be revealed to the respondent and witnesses. However, RIETS is not able to guarantee confidentiality because doing so may limit RIETS' ability to investigate the allegations and to afford the respondent a fair opportunity to respond to the allegations. Requests for confidentiality should be made to the Administrative Dean of RIETS (or his designee), and he will



**14) RE-EVALUATION**

RIETS reserves the right to modify and/or amend any or all of the terms and/or procedures outlined herein at any time, in its sole discretion. In the event RIETS determines that circumstances warrant modification or amendment of this Policy, timely notice of the same will be communicated to all affected parties.

**15) SUPPORT RESOURCES (Confidential and Non-\_\_\_\_\_)**

Phone: (718) 618-2150  
Hotline: (718) 618-2150

- **Safe Horizon (NYC)**  
2 Lafayette Street, 3rd Floor  
New York, NY 10007  
Phone: (212) 227-3000  
<http://www.safehorizon.org/>  
[help@safehorizon.org](mailto:help@safehorizon.org)  
Hotline: (866) 689-4357

### **Immigration & Visa Assistance Services for Victims of Sexual & Interpersonal Violence**

- **U.S. Citizenship and Immigration Services (USCIS)**  
<http://www.uscis.gov/citizenship/learners/find-help-your-community>  
  
**USCIS Find Legal Services Webpage**  
<http://www.uscis.gov/avoid-scams/find-legal-services>
- **Board of Immigration Appeals (BIA)** (Listing of attorneys by state who provide immigration services either for free or for little cost)  
<http://www.justice.gov/eoir/probono/states.htm>
- **American Immigration Lawyers Association (AILA)**  
**Immigration Lawyer Referral Service**  
<http://www.aialawyer.org/>
- **American Bar Association (ABA)**  
(Information on finding legal services by state)  
<http://apps.americanbar.org/legalservices/findlegalhelp/home.cfm>

### **Sexual Assault Forensic Examinations (SAFE)**

Yeshiva University has a Memorandum of Understanding (MOU) with **Mount Sinai Beth Israel - Petrie Division** (Manhattan) located at First Avenue at 16th Street, New York, NY 10003 (main phone: (212) 420-2000) regarding services to sexual assault victims. The Petrie Division has a Sexual Assault Forensic Examiner Program, and is a designated SAFE Center of Excellence. Emergency care and support is available 24 hours/7 days a week, and a Victim Service Program social worker or volunteer advocate is on call at all times.

**Dated: September 2024**

## Appendix A

### Resolution Process

Following a determination to pursue a resolution of a complaint:

- 1) The Administrative Dean of RIETS (or his designee)

the formal complaint. The facts and circumstances of each case may make it necessary to extend the resolution timeline. (See **Section 12**).

- 11) The Administrative Dean of RIETS (or other designated investigator) will compile a neutral investigation report, and will simultaneously inform the parties of the conclusion of the investigation. Both parties will have an opportunity to review the investigation report in person, in the presence of a RIETS official at a location determined by RIETS

The hearing officer may ask that witnesses attend the hearing, so that he/she may ask witnesses questions in person. The parties are encouraged to attend the hearing, so that they are given a full opportunity to explain their positions. If a party is uncomfortable appearing in the same location with the other party, arrangements can be made so that one or both parties may participate in the hearing live by conference call or video conference.

- iv. With respect to allegations regarding sexual assault, stalking, domestic violence or dating violence, the parties may have a personal advisor/support person present during the hearing. (See **Section 6**).
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outlining the grounds for the appeal. The appeal request must be submitted to the Administrative Dean of RIETS within 5 days

Expulsion notations will not be removed in any case. If an accused student withdraws from RIETS while charges are pending and declines to complete the disciplinary process the following notation will be placed on his/her transcript: "withdrew with conduct charges pending."

## **Appendix B**

### **Student Bill of Rights**

RIETS is committed to providing options, support and assistance to victims/survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in RIETS-wide and campus programs, activities, and employment. All victims/survivors of these crimes and



## Appendix C

### **Student Alcohol and Drug Use Amnesty Policy**

The health and safety of every student at RIETS is of utmost importance. RIETS recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking or sexual assault, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. RIETS strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to RIETS officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to a RIETS official or law enforcement will not be subject to a code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

RIETS will provide students with the assistance needed to respond to high risk drinking and/or other

## Appendix D

### **A Plain Language Explanation of Distinctions between the New York State Penal Law and RIETS Disciplinary Processes**

New York State Education Law Article 129-B requires that RIETS officials explain differences between RIETS processes and the criminal justice process in addressing sexual and interpersonal violence.

There are significant differences between the two systems because they have different, important goals. In the criminal justice system, prosecutors pursue cases when they believe there is sufficient evidence to prove, beyond a reasonable doubt, that an individual has committed a criminal act. A person who is convicted of a crime will face criminal penalties, such as incarceration, probation, or the imposition of a fine. RIETS disciplinary process seeks to determine whether an individual has violated RIETS policy. In this process, a preponderance of the evidence standard of proof is used to determine responsibility. A person who is found to have violated RIETS

<b>Procedures.</b>	See Governing Law. Procedures established by police departments, prosecutors' offices, etc.	RIETS policies, which generally incorporate requirements of Governing Law. Collective bargaining agreements and the faculty handbook may impact some procedures.
<b>Standard of Evidence.</b>	Crimes must be proven "Beyond a Reasonable Doubt."	A violation of disciplinary rules must be found by a "Preponderance of the Evidence" (more likely than not).

**Confidentiality.**

		meeting/proceeding or otherwise actively participate in the meeting/proceeding.
<b>Mental Health and Sexual History.</b>	In New York, a reporting individual's prior sexual and mental health history is generally, but not always, inadmissible in a criminal case. There are limited circumstances under which directly relevant evidence of that kind may be admitted.	Generally not admissible, but subject to quite limited exceptions. NYS Education Law Article 129-B permits parties to exclude information about their prior sexual history with persons other than the other party and also to exclude evidence of their own mental health history in the fact finding phase of the disciplinary process.
<b>Possible Results.</b>	If a prosecution takes place, the defendant may <ul style="list-style-type: none"> <li>• plead guilty or "no contest"</li> <li>• have the case dismissed by the judge (on legal grounds)</li> <li>• be found "guilty" or "not guilty" by a judge or jury</li> </ul>	If there is a formal proceeding, the respondent may be found "responsible" or "not responsible" for violations of RIETS's rules. Respondents may also accept responsibility before a finding by an adjudicator.
<b>Sanctions.</b>	An individual found guilty may be fined, imprisoned, or both. In some courts, alternative sanctions are sometimes used.	An individual found responsible for violating RIETS policy may be given a range of sanctions (depending on the severity of the conduct and other factors, such as prior judicial history), ranging from a warning to suspension or expulsion from RIETS.

\* From <http://system.suny.edu/sexual-violence-prevention-workgroup/College-and-Criminal-Resource/>.