

# How protected is academic freedom?

When it comes to Title IX,  
where are the lines?

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Title IX Coordinator

Faculty Retreat  
May 22, 2018

# Feeling knowledgeable about...

- ▶ The climate of sex-based harassment
- ▶ Faculty rights and obligations under Title IX and Curry policies
- ▶ Where to turn for assistance and how to report misconduct
- ▶ Strategies for preventing sex-based discrimination in the classroom and supporting students who may be victims of harassment



FACULTY



# Rochester Professor at Center of Harassment Controversy Will Return to Teaching

By Katherine Mangan | APRIL 05, 2018

A professor at the University of Rochester who was largely exonerated of violating its sexual-

CITY, NEWS

## Berklee students walk-out in protest of sexual assault allegations

November 14, 2017 12:50 am by Haley Lerner

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## Harvard Professor Will Retire After Chronicle Investigation Revealed Harassment Allegations

By Tom Bartlett and Nell Gluckman

A prominent Harvard professor who has been accused by nearly 20 women of sexual harassment announced that he would retire on June 30, but the university's investigation into his actions

MARCH 06, 2018

## How Due Process Became a New Front in the Culture Wars

PREMIUM

PREMIUM ACCESS PROVIDED



# Faculty Rights

- ▶ No Harassment, Discrimination or Retaliation
  - Sexual and Gender-Based Harassment and Discrimination Policy
- ▶ Academic Freedom

# Academic Freedom

- ▶ Research
- ▶ In the Classroom
- ▶ As Citizens
- ▶ As Citizens of Curry College
- ▶ Academic Freedom and Privacy
- ▶ Intellectual Property

# Academic Freedom in the Classroom

- ▶ “Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.”

Article III

- ▶ “Academic curriculum and pedagogical techniques that serve legitimate and reasonable educational purposes do not, in and of themselves, constitute sexual harassment. Those participating in the educational setting bear a responsibility to balance their professional academic responsibilities and academic freedoms with a consideration of the reasonable sensitivities of other participants.”

Article IV

# Title IX

- ▶ Title IX of the Education Amendments of 1972:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.

- ▶ Prohibits discrimination on the basis of sex

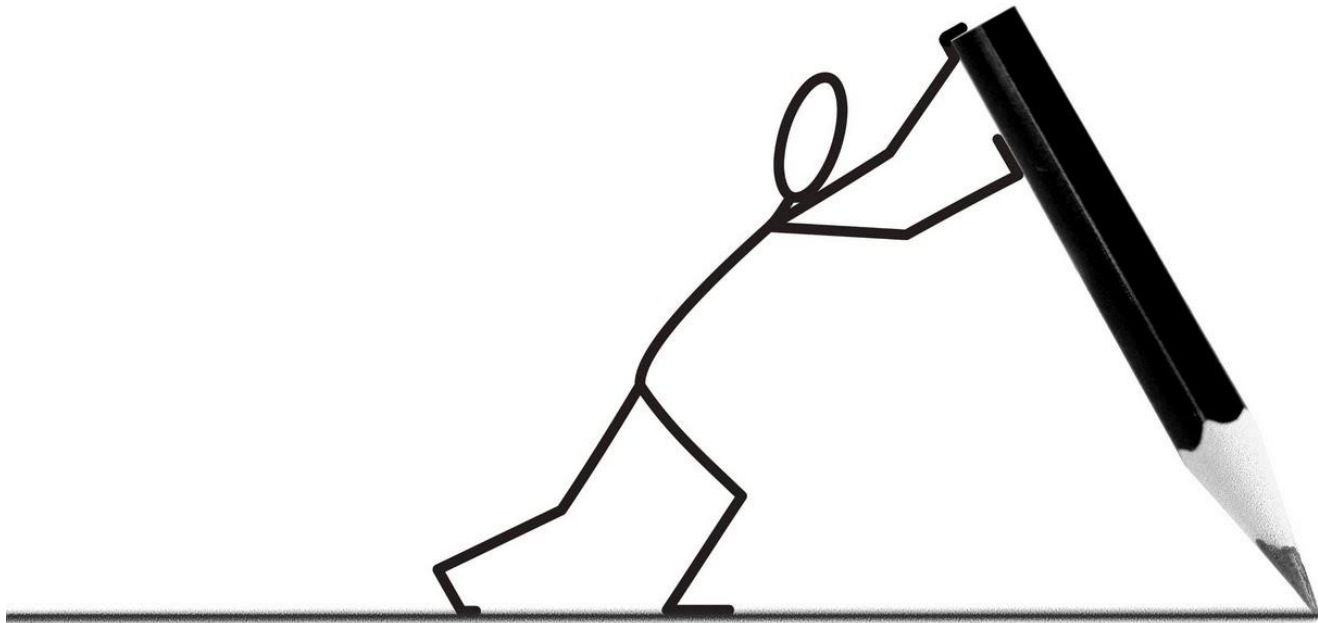
# Title VII

## ► Title VII of the Civil Rights Act of 1964

It shall be an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment because of such individual's race, color, religion, sex or national origin.



So where's the line?



# Scenario 1

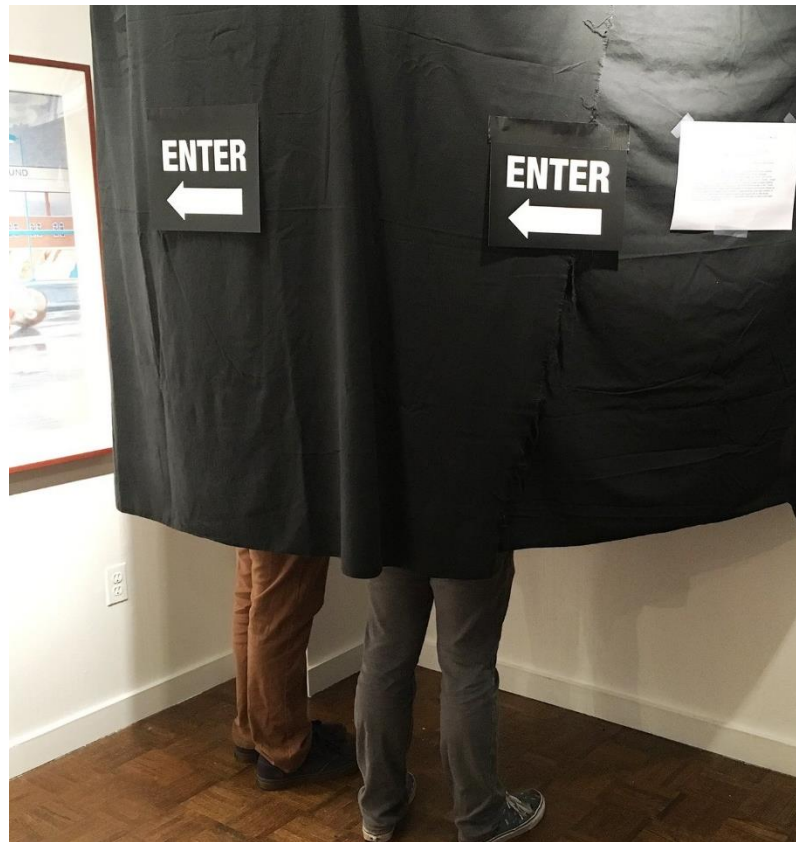
## Controversial Art Exhibit

# Scenario 1



Detail from "Death of Innocence" by Serhat Tanyolacar

# Salem State University, 2016

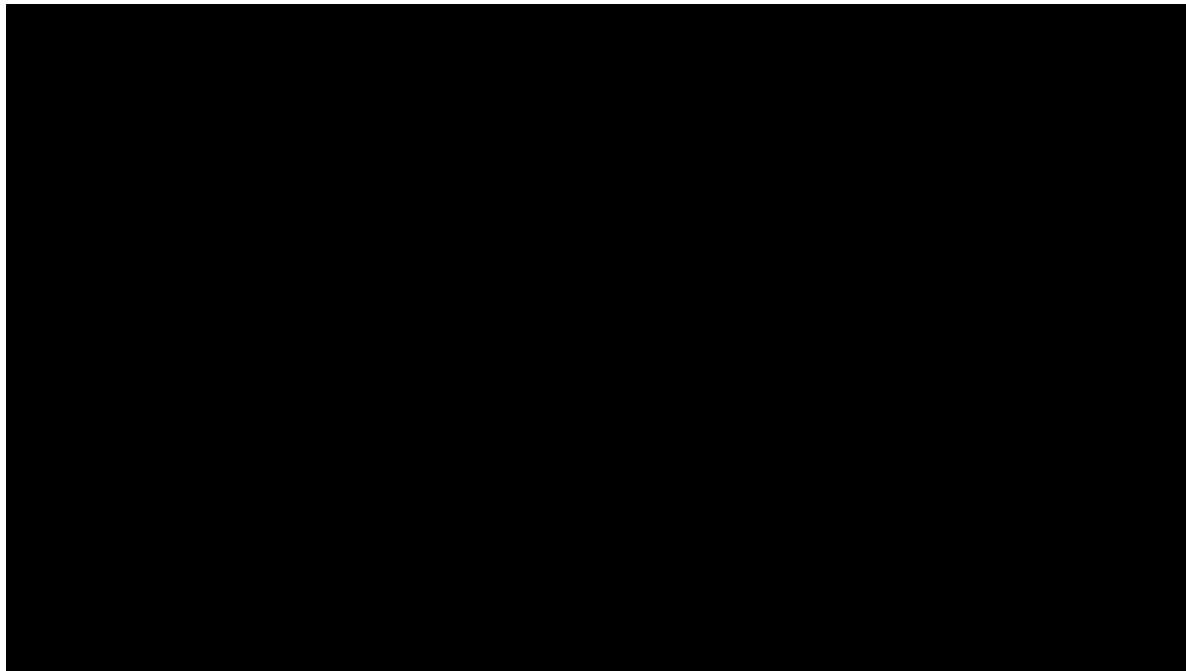


# Hostile Environment

Verbal or physical conduct that relates to a protected category

- ▶ Unwelcome
- ▶ Severe, persistent or pervasive
- ▶ Unreasonably interferes
- ▶ Creates an intimidating or hostile environment

## Scenario 2



# Strategies for Prevention

- ▶ Refrain from making comments about students' physical appearance
- ▶ Raise objection to prohibited conduct
- ▶ Establish clear boundaries, clarify means of communication
- ▶ Consider opportunities for misinterpretation
- ▶ Think about the structure of authority from the student's perspective

# Non-Discrimination – Gender Identity

- ▶ Safe and Nondiscriminatory Environment
  - ▶ A school's failure to treat students consistent with their gender identity may create or contribute to a hostile environment
- ▶ Identification Documents, Names, and Pronouns
  - ▶ Treat students consistent with gender identity regardless of identification documents
  - ▶ Use pronouns and names consistent with gender identity



# Tips for Faculty and Staff

## WHAT IT IS **NOT** OKAY TO SAY TO TRANSGENDER STUDENTS:

Have you had the surgery?  
How did your parents take it?  
Which bathroom do you use?  
The word “transvestite”  
Are you “fully” transitioned?  
So do you like girls or boys?  
They/them is plural, not a pronoun.

## INSTEAD...TRY **THIS!**

Do you have a good support system?  
Do you feel safe using the bathroom of your choice?  
What do you need from me to feel safe?  
Gender and sexual orientation are two very different things.  
The pronouns “they/them/theirs” are should be respected, by those preferring them.

## Scenario 3

- ▶ What are your thoughts on this information?
- ▶ How might you respond knowing that the students weren't directly sharing the information with you?
- ▶ Would it differ if it was submitted to you in a paper?

## Scenario 3

- ▶ How does it factor in that they're talking about something that happened off-campus?
- ▶ Who would you reach out to, if anyone?
- ▶ Who do you think would address these concerns and what might happen?
- ▶ What policies may be at play?

# Responsible Employee

- ▶ Has the authority to take action to redress the harassment,
  - ▶ has the duty to report harassment or other types of misconduct to appropriate officials,
  - ▶ a student could reasonably believe has this authority or responsibility.
- 
- ▶ All faculty and staff (except those in the Counseling Center and Health Services) are considered responsible employees
    - ▶ Accordingly colleges and universities need to ensure that all employees are trained regarding their obligation to report harassment to appropriate administrators

# Liaisons

- ▶ Trained staff and faculty well versed in college policies and resources
- ▶ List on the Portal on the Human Resources page



# Contact Info

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