

Rochester University Sexual and Gender-Based Harassment and Interpersonal Violence Policy

Update 02/20/2020

I. INTRODUCTION

Members of the University community, guests and visitors have the right to be free from all forms of sex/gender harassment, discrimination and misconduct, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The University believes in zero tolerance for sex/gender-based misconduct. Zero tolerance means that when an allegation of misconduct is brought to an appropriate administrator's attention, protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the victim and community are remedied, including serious sanctions when a responding Party is found to have violated this policy. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

The University's sex/gender harassment, discrimination and misconduct policies are not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom. Academic freedom extends to topics that are pedagogically appropriate and germane to the subject matter of courses or that touch on academic exploration of matters of public concern.

The University uses the preponderance of the evidence (also known as "more likely than not") as a standard for proof in determining whether a violation occurred. The University never assumes a responding Party is in violation of University policy; however traditional legal terminology (i.e. guilt, innocence and burden of proof) is not applicable to University resolution proceedings. Campus resolution proceedings are conducted to take into account the totality of all evidence available, from all relevant sources.

TITLE IX COORDINATOR

The University's Title IX Coordinator oversees compliance with all aspects of the sex/gender harassment, discrimination and misconduct policy. The Coordinator reports directly to the President of the University regarding the University's Title IX policy and its enforcement. Questions about this policy should be directed to the Title IX Coordinator. Anyone wishing to make a report relating to discrimination or harassment may do so by reporting the concern to the University Title IX Coordinator:

Sharia Hays
Dean of Students and Title IX Coordinator
The Center for Student Life
248.218.2040
shays@rc.edu or titleIXcoordinator@rc.edu

Additionally, anonymous reports may be made by victims and/or third parties using the online reporting form posted at [RU Title IX website](#). Note that these anonymous reports may prompt a need for the institution to investigate.

Individuals experiencing harassment or discrimination also always have the right to file a formal grievance with government authorities:

Steven Mitchell, Acting Regional Manager
Office for Civil Rights
U.S. Department of Health and Human Services
233 N. Michigan Ave., Suite 240
Chicago, IL 60601
Customer Response Center: (800) 368-1019
Fax: (202) 619-3818
TDD: (800) 537-7697
Email: ocrmail@hhs.gov
Web: <http://www.ed.gov/ocr>

In the event that an incident involves alleged misconduct by the Title IX Coordinator, reports should be made directly to the Vice President responsible for oversight of the Center for Student Life.

SCOPE OF THIS POLICY

This policy governs the conduct of Rochester University students, regardless of enrollment status; faculty; staff; and third parties (i.e., such as vendors, alumni/ae, and visitors).

Third parties are protected by and subject to this policy. A Third Party may report potential policy violations committed by a member of the University community. The University will take appropriate steps to investigate and respond to the conduct in a manner that is consistent with the authority granted by the University's jurisdiction over the Respondent. A Third Party who is accused of violating University policy may also be permanently barred from the University or subject to other restrictions for failing to comply with this policy.

This policy applies to conduct that occurs:

- on University property;
- in the context of any University-related or sponsored education program or activity, regardless of the location (including travel, research, or internship programs);
- by a Rochester University student, regardless of location, under the Student Code of Conduct and Community Standards of Rochester University Students;
- through the use of University-owned or provided technology resources; or
- when the conduct has a nexus to the University, such as continuing adverse effects or the creation or continuation of a hostile environment on campus.

For every report, the Title IX Coordinator will review the circumstances of the reported conduct to determine whether the University has jurisdiction or Disciplinary Authority over the Respondent or the conduct. In exercising jurisdiction over a Rochester University student whose reported conduct occurred off campus, with no nexus to the University or a University related or sponsored education program or activity, the University's ability to investigate and impose disciplinary action may be limited by the amount of information available to the University through the exercise of reasonable diligence.

In instances where the University no longer has Disciplinary Authority over the Respondent, the University will still take reasonably available steps to support a Complainant through interim remedial measures and will assist a Complainant in identifying external reporting mechanisms.

This policy uses the terms Complainant, Respondent, Third Party, and witness as follows:

- The term **Complainant** refers to an individual who is reported to have experienced prohibited conduct, regardless of whether the individual makes a report or seeks disciplinary action.
- The term **Respondent** refers to an individual who has been accused of prohibited conduct.
- The term **Third Party** refers to an individual who is not a University student, faculty member, or staff member (e.g., vendors, alumni/ae, or visitors).
- The term **witness** refers to an individual who may have information relevant to a report of prohibited conduct. A witness may be a student, an employee, or a Third Party.

PRIVACY AND CONFIDENTIALITY

Rochester University is committed to facilitating an environment that encourages members of the campus community to report any form of sexual and gender-based harassment and/or other forms of interpersonal violence. The University will endeavor to protect the identities and privacy of those who seek help or who report prohibited conduct under this policy. However, it is important to understand the limits on confidentiality of individuals who may be contacted for such assistance. Different people, depending on their positions, have different obligations with regard to confidentiality. Members of the campus community can expect confidentiality from the Campus Psychology Clinic and Campus Ministry staff. See the reporting procedures below for more information regarding confidential communication and responsible parties.

This policy uses the terms privacy and confidentiality as follows:

- The term **privacy** refers to the discretion that will be exercised by the University in the course of any investigation or disciplinary processes under this policy. Information related to a report of prohibited conduct will be shared with a limited circle of University employees who need to know in order to assist in the assessment, investigation, and resolution of the reported and related issues. University employees receive training in how to safeguard private information. The University will make reasonable efforts to investigate and address reports of prohibited conduct under this policy, and information may be disclosed to participants in an investigation as necessary to facilitate the thoroughness and integrity of the investigation. In all such proceedings, the University will take into consideration the privacy of the parties to the extent reasonably possible.

The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA). The privacy of an individual's medical and related records generally is protected by the Health Insurance Portability and Accountability Act (HIPAA).

- The term **confidentiality** refers to the protections provided to information disclosed in legally-protected or privileged relationships under Michigan state law, including licensed professional mental health counselors, licensed medical professionals, and ordained clergy. These confidential resources can engage in confidential communications under Michigan law when the information is disclosed within the scope of the provision of professional services. When an individual shares information with a confidential resource (on campus or in the community) as a confidential communication in the course of a protected relationship, the confidential resource cannot disclose the information (including information about whether an individual has received services) to any

Third Party without the individual's written permission or unless required by ethical or legal obligations which compel the professional to reveal such information. For example, information may be disclosed when the individual gives written consent for its disclosure, there is an imminent concern that the individual will likely cause serious physical harm to self or others, or the information concerns conduct involving suspected abuse or neglect of a minor under the age of 16. A person's medical and counseling records are privileged and confidential documents. Confidential resources submit non-personally-identifying information about Clery-reportable crimes to the Rochester University Campus Safety Director for purposes of the anonymous statistical reporting under the Clery Act.

AMNESTY POLICY

It is assumed that every student enrolling at Rochester University agrees to conduct himself or herself in a manner conducive to the highest sort of mental and moral development in keeping with the ideals and traditions of the University as outlined in the Rochester University Student Code of Conduct. Rochester University has a primary objective to promote the reporting of instances of sexual and gender-based harassment and/or interpersonal violence so those affected can receive the support and resources needed. Reports of prohibited conduct under this policy, made in good faith by Complainants who may have violated the Rochester University Student Code of Conduct at the time of the sexual and gender-based harassment and/or interpersonal violence incident, are granted amnesty from disciplinary actions under the Rochester University Student Code of Conduct

II. PROHIBITED CONDUCT UNDER THIS POLICY

In determining whether reported conduct violates this policy, the University will consider the totality of the facts and circumstances involved in the incident, including the nature of the reported conduct and the context in which it occurred. Individuals of any sex or gender can commit any of the prohibited conduct defined in this policy, and it can occur between individuals of the same sex/gender or different sexes/genders. It can occur between strangers or acquaintances, as well as persons involved in intimate, sexual, dating, domestic, or familial relationships. This policy prohibits the following forms of conduct, including attempts to commit the prohibited conduct outlined below:

A. Sexual Assault

The following behaviors constitute sexual assault:

Non-Consensual Sexual Penetration: Any act of vaginal or anal penetration, however slight, by any body part of a person, or an object, or, regardless of whether penetration occurs, any oral genital contact, without consent.

Non-Consensual Sexual Contact: Any intentional touching of a person's intimate body parts without consent. Touching may be over or under clothing and may include the Respondent touching the Complainant, the Respondent making the Complainant touch the Respondent or another person, or the Respondent making the Complainant touch the Complainant's own body. Making could include but not limited to physical force, threats, intimidation, duress, coercion, or inducement.

B. Sexual and Gender Based Harassment

Sexual Harassment: Sexual harassment is any unwelcome sexual advance, request for sexual favors, and/or other verbal or physical conduct of a sexual nature when one of the conditions outlined in (1), (2), or (3), below, is present.

Gender-Based Harassment: Gender-based harassment includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve contact of a sexual nature, when one of the conditions outlined in (1), (2), or (3), below, is present.

- 1) Submission to, or rejection of, such conduct is made implicitly or explicitly a term or condition of a person's instruction, academic standing, employment, or participation in any University program, activity, or benefit.
- 2) Submission to, or rejection of, such conduct by an individual is used as a basis for evaluation in making academic or personnel decisions.
- 3) Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University's educational, employment, and/or campus-residential experience when viewed through both a subjective and objective standard.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of sexual assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.

Examples of sexual harassment may include, but are not limited to:

- Repeated offensive sexual flirtations, advances or propositions which are offensive;
- Verbal abuse or innuendo of a sexual nature which is continued or repeated;
- Physical contact such as touching, hugging, patting or pinching which is uninvited and unwanted by the other person;
- Offensive verbal comments of a sexual nature about an individual's body or sexual terms used to describe an individual;
- An open display of sexually suggestive objects or pictures if people find them offensive;
- Jokes or remarks of a sexual nature if people find them offensive;
- Unwanted prolonged and apparent staring or leering at a person;
- Obscene gestures or suggestive or insulting sounds made towards people who find them offensive;
- The demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment status or educational status or promises of preferential treatment;
- Direct or implied requests for sexual favors in exchange for actual or promised favorable evaluations of course requirements, or favorable recommendations for position or benefits within or outside the University Community.

In evaluating allegations of sexual or gender-based harassment, the allegations are evaluated from both a subjective and objective perspective considering the totality of the circumstances.

C. Sexual Exploitation

Sexual Exploitation: Any act where one person violates the sexual privacy of another or takes unjust or abusive sexual advantage of another without their consent. Sexual exploitation may include:

- Surreptitiously observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Recording, photographing, transmitting, showing, viewing, streaming, or distributing intimate or sexual images, audio recordings, or sexual information without the knowledge and consent of all parties involved; or
- Exposing one's genitals or inducing another to expose their own genitals in non-consensual circumstances.
- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD) or infection (STI) without informing the other person of the infection.
- Administering alcohol or drugs (such as “date rape” drugs) to another person without his or her knowledge or consent (even if no sexual act is completed).
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation

D. Intimate Partner Violence

Intimate Partner Violence: Any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship. Intimate partner violence may include any form of prohibited conduct under this policy, including sexual assault, stalking, and physical abuse (as defined below).

Physical abuse consists of threatening or causing physical harm to another, or engaging in other conduct that threatens or endangers the health or safety of any person. Physical abuse will be addressed under this policy if it involves sexual or gender-based harassment, intimate partner violence, or is part of a course of conduct under the stalking definition.

As used in this policy, the definition of intimate partner violence is consistent with the definitions of dating violence and domestic violence established in the Clery Act (as amended by VAWA). When determining whether the reported conduct meets the Clery definition, whether there has been a domestic or dating relationship will be determined by a review of its length, type, and frequency of interaction.

E. Stalking

Stalking: A course of conduct (i.e., more than one act) directed at a specific person which would cause a reasonable person (under similar circumstances and with similar identities to the Complainant) to feel fear, to experience substantial emotional distress, or to fear for their safety or the safety of a third person. Acts that together constitute stalking may be direct actions or may be communicated by a Third Party, and can include, but are not limited to, threats of harm to self, others, or property; pursuing or following; non-consensual (unwanted) communication by any means; unwanted gifts; trespassing; and surveillance or other related types of observation. Stalking also includes cyber-stalking through electronic media, like the internet, social networks, blogs, cell phones, or text messages.

F. Additional Terms and Definitions Regarding this Policy

AFFIRMATIVE CONSENT

Affirmative consent is informed, knowing and voluntary. The University defines affirmative consent as mutually understandable words or actions which indicate willingness to participate in mutually agreed-upon sexual activity. Affirmative Consent cannot be given by minors (in Michigan, those not yet sixteen (16) years of age). Affirmative Consent cannot be given by individuals who have a mental disability that results in their being unable to provide informed, knowing and voluntary consent. Affirmative Consent cannot be given by those who are unconscious, unaware or otherwise physically helpless. Consent obtained as a result of physical force, threats, intimidation (implied threats), duress or coercion is not Affirmative Consent. A person who knows or should reasonably have known that another person is incapacitated may not engage in sexual activity with that person, and there can be no Affirmative Consent in such situations. Affirmative Consent cannot be given by those who are incapacitated as a result of alcohol or other drug consumption (voluntary or involuntary). In addition, incapacitation may result from mental disability, sleep, or involuntary physical restraint, and there can be no Affirmative Consent in such situations. Affirmative Consent to one form of sexual activity does not, by itself, constitute Affirmative Consent to another form of sexual activity.

Affirmative Consent may be withdrawn at any time. An individual who seeks to withdraw Affirmative Consent must communicate, through clear words or actions, a decision to cease the sexual activity. Once Affirmative Consent is withdrawn, the sexual activity must cease immediately.

INCAPACITATION

A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the responding Party was intoxicated and, therefore, did not realize the incapacity of the reporting Party.

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

In the State of Michigan, a minor (meaning a person under the age of 16 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 16 years old may be a crime, and a potential violation of this policy, even if the minor wanted to engage in the act.

COERCION OR FORCE

Coercion or **force** includes conduct, intimidation, and expressed or implied threats of physical or emotional harm, that would reasonably place an individual in fear of immediate or future harm and that is exercised to persuade or compel someone to engage in **Sexual Contact**.

Examples of **Coercion** or **Force** include causing the deliberate **Incapacitation** of another person; conditioning an academic benefit or employment advantage on submission to the **Sexual Contact**; threatening to harm oneself if the other Party does not engage in **Sexual Contact**; or threatening to disclose an individual's **Sexual Orientation, Gender Identity, Gender Expression**, or other personal sensitive information if the other Party does not engage in the **Sexual Contact**.

RETALIATION

This policy prohibits acts or words taken against an individual or group of individuals involved in a protected activity. Protected activity includes making a good faith report under this policy; filing an external complaint; opposing in a reasonable manner and consistent with University policy an action reasonably believed to constitute a violation of this policy. Retaliation may also include acts or words taken against an individual or group of individuals because they have participated in proceedings under this policy. Retaliation can take many forms, including, but not limited to, adverse action or violence, threats, and intimidation that would discourage a reasonable person (under similar circumstances and with similar identities to the Complainant) from engaging in protected activity. Actions in response to a good faith report or response under this policy are considered retaliatory if they have a materially adverse effect on the working, academic, or University-controlled living environment of an individual or if they hinder or prevent the individual from effectively carrying out their University responsibilities. All individuals and groups of individuals are prohibited from engaging in retaliation and will be held accountable under this policy. Concerns or questions about retaliation should be immediately reported to the University's Title IX Coordinator.

COMPLICITY

Any act that knowingly aids, facilitates, promotes, or encourages the commission of prohibited conduct by another person.

III. OPTIONS FOR REPORTING PROHIBITED CONDUCT

Rochester University is committed to facilitating an environment that encourages individuals who have experienced sexual or gender-based harassment or discrimination, including sexual violence, to report the misconduct to the University or to local law enforcement. The University will take precautions to protect the identities and privacy of those who seek help or who report sexual or gender-based harassment or discrimination. These options are not mutually exclusive – an individual choosing to file a report does not need to choose one option over the other. Internal reports and criminal reports can be made simultaneously or at different times. There is no time limitation on reporting allegations to the Title IX Coordinator. However, if the responding Party is no longer subject to Rochester University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited.

The University encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual violence. This is the best course of action to ensure preservation of evidence and to begin a timely investigation, outside of the University's process.

1. Reporting to Law Enforcement

Conduct that violates this policy may also constitute a violation of law. For immediate safety assistance, an individual should dial 911 or contact Rochester University Campus Security. Campus Security can assist in making a criminal report to local law enforcement. The contact information for the appropriate local law enforcement agencies is listed below. Additionally, Campus Security can provide information about the process for seeking court ordered civil restraining orders or harassment protection orders.

Emergencies	911
Rochester University Campus Security	248.765.8013
Oakland County Sheriff's Department	248.537.3513

2. Reporting to the University

The following individuals are trained and designated to receive and respond to allegations of violations of the policy:

Title IX Coordinator:

Dr. Sharia Hays
Deans of Students and Title IX Coordinator
The Center for Student Life
248.218.2040
shays@rc.edu or titleIXcoordinator@rc.edu

Deputy Title IX Coordinator:

Scott Cagnet
Assistant Dean of Students
The Center for Student Life
248.218.2231
scagnet@rc.edu

Acts of misconduct can be reported using the reporting form at [RU Title IX website](#)

An individual may choose not to provide all of the necessary information relevant to the case. However, the University still has an obligation to investigate the incident in order to provide a safe, non-discriminatory environment for all students, faculty and staff. In deciding whether a complaint must be pursued, the Title IX Coordinator will handle all matter with the assistance of Deputy Title IX Coordinator.

RESPONSIBILITY TO REPORT

It is important to know members of the campus community, including faculty, staff, administrators, and Student Employees, who have direct responsibility for student welfare, are required to inform the Title IX Coordinator about any report of sexual and gender based harassment and interpersonal violence they receive or instance of which they become aware. Students and all other members of the campus community who do not have direct responsibility for student welfare may report any instance of sexual misconduct for which they have knowledge.

It is important to understand the different responsibilities of Rochester University employees. Every employee is designated as either a Confidential Resource or a Responsible Employee.

Confidential Resources: A Confidential Resource is any employee who is a licensed medical, clinical, or mental-health professional (e.g., physicians, nurses, physician’s assistants, psychologists, psychiatrists, professional counselors, and social workers, and those performing services under their supervision), when acting in that professional role in the provision of services to a patient; and any employee providing administrative, operational, and/or related support for such health care providers in their performance of such services. Confidential Resources will not disclose information about prohibited conduct without the individual’s permission or as set forth in Confidentiality section. When individuals who otherwise may be Confidential Resources receive information outside of the provision of services to a patient or Rochester University ministerial relationship, the Confidential Resource is required to share that information with the Title IX Coordinator.

Responsible Employees: With the exception of University employees designated as Confidential resources, all other University employees, including faculty, instructors (including teachers of record), and staff, **are required to report immediately** any information they know about suspected prohibited conduct or potential violations of this policy. These individuals are referred to as Responsible Employees. Student workers who have supervisory responsibility or responsibility for the welfare of other students are also considered Responsible Employees when they learn of potential violations of this policy in the scope of their employment. Student workers who are Responsible Employees include but are not limited to Residence Life Community Leaders, Fellowship and Emerging Student Leaders.

Responsible Employees must report all known information, including the identities of the parties, the date, time and location, and any details about the reported incident to the Title IX Coordinator. The Title IX Coordinator will share all reports with the Rochester University Campus Security to ensure a coordinated institutional response. Responsible Employees may provide support and assistance to a Complainant, witness, or Respondent; but they cannot promise confidentiality or withhold information about prohibited conduct. Failure by a Responsible Employee to report suspected prohibited conduct in a timely manner may subject them to appropriate discipline, including removal from a position or termination of employment.

Responsible Employees are not required to report information disclosed (1) at public awareness events (e.g. public forums) in which students may disclose prohibited conduct; or (2) during an individual’s participation as a subject in an Institutional Review Board-approved human subjects research protocol (IRB Research). The University may provide information about Title IX rights and about available University and community resources and support at public awareness events, however, and Institutional Review Boards may, in appropriate cases, require researchers to provide such information to all subjects of IRB Research.

Students: With the exception of student workers who are designated as Responsible Employees, all other students are encouraged to report any suspected violation of this policy. A Complainant may choose not to make a complaint or report in their own case, even if the Complainant would otherwise have reporting obligations by virtue of being a faculty member, staff member, or student worker.

IV. THE UNIVERSITY’S RESPONSE PROCEDURE

Upon receipt of a report, the University will generally proceed as described below, in cooperation with the Title IX Coordinator.

A. INTERIM MEASURES

Reasonable and appropriate remedial, protective and interim measures may be put in place by the appropriate University official(s) upon the University receiving a report of a violation of this policy. These measures may be both remedial (designed to address a Complainant's safety and well-being and continued access to educational opportunities) or protective (designed to reduce the risk of harm to an individual or community). These measures, which may be temporary or permanent, may be imposed even when not specifically requested by a Complainant or Respondent at the discretion of the University, as appropriate.

Interim remedial measures may include but are not limited to:

- Referral to counseling services
- Assistance in providing referral resources in obtaining a sexual assault forensic examination
- Assistance in arranging rescheduling of exams and assignments and extensions of deadlines
- Academic support
- Assistance in requesting long-term academic accommodations through Rochester University's Accommodation Officer, if the Complainant qualifies as an individual with a disability
- Change in the Complainant's class schedule, including the ability to transfer course sections or withdraw from a course
- In a matter in which sexual assault has been alleged, allow either a Complainant or a Respondent to drop a class in which both parties are enrolled in the same section
- Change in the Complainant's University work schedule or job assignment
- Change in the Complainant's campus housing
- Escort and other safety planning steps
- Imposition of a "no contact directive," an administrative remedy designed to curtail contact and communications between two or more individuals
- Voluntary leave of absence
- Referral to resources which can assist in obtaining a protective order under Michigan law
- Referral to resources which can assist with any financial aid, visa, or immigration concern

Interim remedial measures are available to the Complainant regardless of whether the Complainant pursues an investigation or seeks formal disciplinary action.

Interim Protective Measures may include but are not limited to:

- Change in the Respondent's class schedule
- Change in the Respondent's University work schedule or job assignment
- Change in the Respondent's campus housing
- Exclusion from all or part of University housing
- Exclusion from specified activities or areas of campus
- Prohibition from participating in student activities or representing the University in any capacity including but not limited to: participation in a recognized student organization, participation in a collegiate athletic program, participation in a student leadership capacity and participation in University sanctioned activities and events
- Interim suspension

The University reserves the right to take whatever measures it deems necessary in response to an alleged violation of this policy in order to protect the safety or orderly operation of the campus community. Not

all violations of this policy will involve the same set of circumstances, so the Title IX Coordinator will use his or her discretion to impose interim measures.

B. INITIAL ASSESSMENT

Upon receipt of a report of Prohibited Conduct committed by a Student, Employee or Third Party, the Title IX Coordinator will take immediate and appropriate steps to investigate or otherwise determine what happened and work to resolve the matter promptly and equitably.

As part of the Initial Assessment, the Title IX Coordinator will gather information about the reported conduct and respond to any immediate health or safety concerns raised by the report. The Title IX Coordinator will assess the Complainant's safety and well-being, offer the University's immediate support and assistance, and assess the nature and circumstances of the report to determine whether the reported conduct raises a potential policy violation, whether the reported conduct is within the scope of this policy, and the appropriate manner of resolution under this policy. The Title IX Coordinator may consult with Campus Security or other University administrators as part of the initial assessment.

As part of the initial assessment, the Title IX Coordinator will typically:

- Assess the Complainant's safety and well-being and offer the University's immediate support and assistance;
- Assess the nature and circumstances of the report;
- Inform the Complainant of the right to seek medical treatment, and explain the importance of obtaining and preserving forensic and other evidence;
- Inform the Complainant of the right to contact law enforcement, decline to contact law enforcement, seek a protective order, and to have University assistance in doing so;
- Inform the Complainant about University and community resources, the right to seek appropriate and available remedial and protective measures, and how to request those resources and measures;
- Inform the Complainant of the option to seek Informal Resolution (where available) or Formal Resolution under these Procedures; ascertain the Complainant's expressed preference (if the Complainant has, at the time of the initial assessment, expressed a preference) for pursuing Informal Resolution, Formal Resolution, or neither; and discuss with the Complainant any concerns or barriers to participating in any University investigation and resolution under these Procedures;
- Explain the University's prohibition against Retaliation and that the University will take prompt action in response to any act of Retaliation;
- Ascertain the ages of the Complainant and the Respondent, if known, and, if either of the parties is under 18, determine whether the conduct must be reported under state law ; and
- Communicate with appropriate University officials to determine whether the report triggers any Clery Act obligations, including entry of the report in the daily crime log and/or issuance of a timely warning, and take steps to meet those obligations.

When the Title IX Coordinator decides to initiate an investigation, impose Interim Protective Measures, or take any other action that impacts a Respondent, the Title IX Coordinator will also ensure that Respondent is notified and receives written information on available resources and options, consistent with the list outlined above. The initial assessment will be conducted promptly and the time frame for the initial assessment will be tailored to the context and circumstances. The University will seek to complete the initial assessment within 10 business days, but recognizes that there may be circumstances in which the initial assessment takes longer based on the availability of the Complainant or other necessary information, a Complainant's request to maintain privacy or not seek disciplinary action, or other factors

outside of the University's control. The University understands that a Complainant may engage in delayed decision-making, which may affect the timing of the conclusion of the initial assessment.

Balancing Complainant Autonomy with University Responsibility to Investigate

In order to protect the safety of the campus community, the Title IX Coordinator may need to proceed with an investigation even if a Complainant specifically requests that the matter not be pursued. The Title IX Coordinator may also initiate an investigation of potential violations of this policy even absent a formal report or identified Complainant or Respondent and even if a report has been withdrawn. In such a circumstance, the Title IX Coordinator will take into account the Complainant's articulated concerns, the safety of the campus community, fairness to all individuals involved, and the University's obligations under Title IX.

A Complainant may request that their name or other personally-identifiable information not be shared with a Respondent, that no investigation be pursued, or that no disciplinary action be taken. In these instances, before taking any further investigative steps, the Title IX Coordinator will discuss any concerns with the Complainant and seek to address and remedy barriers to reporting based upon concerns about retaliation or questions about procedural options and potential outcomes.

The Title IX Coordinator will balance the Complainant's request against the following factors in reaching a determination on whether the request can be honored:

- the totality of the known circumstances;
- the nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon;
- the respective ages and roles of the Complainant and Respondent;
- the risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- whether there have been other reports of other prohibited conduct or other misconduct by the Respondent;
- whether the report reveals a pattern of misconduct related to Prohibited Conduct (e.g., illicit use of drugs or alcohol) at a given location or by a particular group;
- the Complainant's interest in the University not pursuing an investigation or disciplinary action and the impact of such actions on the Complainant;
- whether the University possesses other means to obtain relevant evidence;
- fairness considerations for both the Complainant and the Respondent;
- the University's obligation to provide a safe and non-discriminatory environment; and
- any other available and relevant information.

The Title IX Coordinator will consider what steps may be possible or appropriate when a Respondent is unknown or the Complainant requests anonymity and what other measures or remedies might be considered to address any effects of the reported behavior on the campus community. The Title IX Coordinator will make a determination regarding the appropriate manner of resolution under the policy. The University will seek resolution consistent with the Complainant's request, if it is reasonably possible to do so, based upon the facts and circumstances, while also protecting the health and safety of the parties and the University community.

Where the Title IX Coordinator determines that a Complainant's request(s) can be honored, the University may nevertheless take other appropriate steps to eliminate the reported conduct, prevent its recurrence and remedy its effects on the Complainant and the University community. Those steps may

include offering appropriate support measures to the Complainant, providing targeted training and prevention programs, and/or providing or imposing other remedies.

The Title IX Coordinator may also re-open a report under this policy if any new or additional information becomes available, and/or if the Complainant later decides that she/he would like a Formal Resolution to occur.

In those instances when the Title IX Coordinator determines that the University must proceed with an investigation despite the Complainant's request that it not occur, the Title IX Coordinator will notify the Complainant that the University intends to initiate an investigation. The Complainant is not required to participate in the investigation or in any of the actions taken by the University.

The University's ability to investigate and respond fully to a report may be limited if the Complainant requests anonymity or declines to participate in an investigation. The University will, however, pursue other steps to limit the effects of the reported conduct and prevent its recurrence. In all cases, the final decision on whether, how and to what extent the University will conduct an investigation and whether other Interim Support or Protective Measures will be taken in connection with a report of Prohibited Conduct will be made in a manner consistent with this policy.

At the conclusion of the initial assessment, the University will proceed with one of the following options:

1. Proceed with an investigation under the Formal Resolution process. This will occur when a Complainant requests an investigation, or where the Title IX Coordinator determines to proceed with an investigation even when a Complainant requests that no investigation be pursued, or where Informal Resolution is not appropriate or available.
2. Proceed with Informal Resolution. This will always require the consent of the Complainant. The consent of the Respondent is also required when the form of resolution involves the Respondent.
3. If outside the scope of this policy, refer the matter to another appropriate office or department for resolution under the relevant policy.

C. INFORMAL RESOLUTION

Informal Resolution is a voluntary and remedies-based resolution that typically does not involve taking disciplinary action against a Respondent. In some forms of Informal Resolution, the remedies imposed will focus on supporting the Complainant with no participation or involvement by the Respondent. In other forms of Informal Resolution, the Respondent may agree to participate. Depending on the form of Informal Resolution used, it may be possible for a Complainant to maintain anonymity.

Any form of Informal Resolution and any combination of interventions and remedies may be utilized. Where an initial assessment concludes that Informal Resolution may be appropriate, the University will take prompt action through the imposition of individual and community remedies designed to maintain access to the educational, extracurricular, and employment activities at the University and to remedy the impacts of conduct on members of the University community.

Other potential remedies include targeted or broad-based educational programming or training, supported direct conversation or interaction with the Respondent, and/or indirect action by the Title IX Coordinator. In some circumstances, Informal Resolution may involve disciplinary action against a Respondent. Disciplinary action will only be imposed against a Respondent where there is a sufficient factual foundation and both the Complainant and the Respondent have agreed to forego the additional procedures set forth in this Policy and accept an agreed upon sanction. The University will not compel a Complainant to engage in mediation, to confront the Respondent directly, or to participate in any particular form of

Informal Resolution. The decision to pursue Informal Resolution will be made when the University has sufficient information about the nature and scope of the conduct, which may occur at any time.

Participation in Informal Resolution is voluntary, and either Party can request to end Informal Resolution at any time. If an agreement acceptable to the University, the Complainant, and the Respondent is reached through Informal Resolution, the terms of the agreement are implemented and the matter is deemed resolved and closed. If an agreement is not reached, and the Title IX Coordinator determines that further action is necessary, or if a Respondent fails to comply with the terms of the Informal Resolution, the matter may be referred for an investigation and Formal Resolution.

Where the Complainant or the Respondent withdraws from Informal Resolution or Informal Resolution is otherwise terminated for any reason, any statements or disclosures made by the parties during the course of the Informal Resolution may be considered in a subsequent investigation and Formal Resolution.

The Title IX Coordinator will maintain records of all reports and conduct referred for Informal Resolution, which will typically be complete within 60 business days of the initial report.

D. FORMAL RESOLUTION: INVESTIGATION

The University will conduct a prompt and equitable investigation to gather information relevant to the determination of whether there is sufficient information, by a preponderance of the evidence, to determine that a policy violation occurred. The investigation will be impartial and will be conducted by trained individuals who have no actual bias or conflict of interest.

During the investigation and disciplinary proceedings, both the Complainant and Respondent have equitable opportunities, including the opportunity to receive a written notice of investigation; to participate in the investigation; to review and present information and evidence; to be accompanied by an Advisor of their choice to any meeting; to timely and equal access to information that will be used in disciplinary proceedings; to timely notice of meetings at which their presence will be requested or required; to simultaneous written notice of the outcome, sanction and rationale; and to appeal the outcome.

The Investigator, not the parties, is responsible for gathering relevant evidence. The Complainant and Respondent will be asked to identify witnesses and provide other relevant information, such as documents, communications and other evidence, if available. The parties are encouraged to provide all relevant information as promptly as possible to facilitate prompt resolution and are encouraged to preserve relevant evidence. In the event that a Party declines to voluntarily provide material information, the University's ability to conduct a prompt, thorough and equitable investigation may be impacted.

Initiating an Investigation

All complaints will be investigated. Upon initiating an investigation, the University will designate an Investigator to conduct a prompt, thorough, fair and impartial investigation. The Investigator may be a University employee and/or an experienced external investigator. Any Investigator used by the University will receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence and stalking, and on how to conduct an investigation that is fair and impartial, provides parties with notice and a meaningful opportunity to be heard, and protects the safety of all participants while promoting accountability. The Investigator will be impartial and free from conflict of interest or actual bias for or against the Complainant or Respondent.

Notice of Investigation

The Title IX Coordinator will notify the Complainant and the Respondent, in writing, of the following information: (1) the names of the Complainant and the Respondent; (2) the date, time (if known), location, and a brief summary of the nature of the reported conduct; (3) the reported policy violation(s); (4) the name of the Investigator; (5) information about the parties' participation in the process; (6) the prohibition against retaliation; (7) the importance of preserving any potentially relevant evidence in any format; (8) how to challenge participation by the Investigator on the basis of a conflict of interest or bias; and (9) a copy of this policy. If the investigation reveals the existence of additional or different potential violations of this policy, the Investigator will issue a supplemental notice of investigation.

Consolidation of Investigation

The Title IX Coordinator has the discretion to consolidate multiple reports into a single investigation if evidence relevant to one incident is relevant to the others. Consolidation might involve multiple Complainants and a single Respondent, multiple Respondents, or conduct that is temporally or logically connected.

Investigative Steps

During an investigation, the Investigator will seek to meet separately with the Complainant, Respondent and relevant witnesses. Witnesses are individuals who may have information relevant to the incident, including individuals who may have observed the acts in question, may be able to provide contextual information, or may have other information related to the incident, the disclosure, the parties or related matters. Witnesses may not participate solely to speak about an individual's character. Where witnesses are interviewed as part of the investigation, the name of the witness and the information gathered in the interviews will be included in the written investigation report, which the parties will have the opportunity to review at the conclusion of the investigation. The Investigator will also gather other relevant information or evidence, including documents, photographs, communications between the parties, medical records (subject to the consent of the applicable person), and other electronic records as appropriate.

Social Media and Personal Communications

The Investigator may also consider information publicly available from online sources that comes to the attention of Investigator. The University does not actively monitor online sources, however, and as with all potentially relevant information, the Complainant, Respondent or witness should bring online information to the attention of the Investigator if they believe it is relevant.

The Investigator may also consider communications involving or relating to one or both parties that either Party brings to the attention of the Investigator or that is provided by the parties in response to a request by the Investigator. The Investigator may also seek review of information available on University devices or servers, consistent with the University's technology policies.

Advisors

Throughout the investigation and resolution process, each Party has the right to choose and consult with an Advisor. The Advisor may be any person who is not otherwise a Party or witness involved in the investigation. The parties may be accompanied by their respective Advisors at any meeting or proceeding related to the investigation and resolution of a report under these Procedures. While the Advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings.

Prior or Subsequent Conduct

Prior or subsequent conduct may be considered in determining pattern, knowledge, intent or motive. For example, evidence of an articulable pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a policy violation, may be deemed relevant to the determination of responsibility for the Prohibited Conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar prohibited conduct. The Investigator will determine the relevance of this information, which may involve additional investigative steps, and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.

Prior Sexual History

The sexual history of the Complainant or Respondent will never be used to prove character or reputation. Evidence related to the prior sexual history of the parties is generally not used in determining whether a violation of this policy has occurred and will only be considered when a determination is made that it is directly relevant to the investigation. For example, if Consent is at issue, the sexual history between the parties may be relevant to determine the nature and manner of communications between the parties, which may inform the determination whether Consent was sought and reasonably appeared to have been given during the incident in question. As set forth in the Consent definition, even in the context of a relationship, Consent on one occasion does not constitute Consent on a subsequent occasion. In addition, prior sexual history may be relevant to explain injury, to provide proof of a pattern, or to address another specific issue raised in the investigation. The Investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant.

Relevance

The Investigator will review all information identified or provided by the parties and will determine the appropriateness, relevance and probative value of the information developed or received during the investigation. In general, the Investigator will not consider statements of personal opinion or statements as to any Party's general reputation for any character trait. All information considered relevant by the Investigator will be provided to the parties for their review and comment, as described in this policy.

Expectations of the Parties

The University expects all members of the University community to cooperate fully with the investigation and disciplinary procedures. It is understood that there may be circumstances in which a Complainant or Respondent wish to limit their participation, and the University will respect the choice of the Complainant or Respondent as to how to engage in proceedings under this policy. The University may, however, move forward with an investigation and disciplinary action without the participation of a Party or parties.

If a Complainant or Respondent chooses not to answer any or all questions in an investigation for any reason, the University will continue its process; and the University will issue any discipline or sanctions as appropriate. The University will not draw any adverse inference solely from a Complainant's or Respondent's decision not to participate in the investigation or any form of resolution under this policy; however, the Complainant or Respondent should be aware that declining to participate in the investigation may affect the timing and outcome of the case.

Effect of Withdrawal

At any time, the University may place an administrative hold on the Respondent's University transcript, make a transcript notation, or defer or withhold the award of the Respondent's degree. Although a Respondent may withdraw from the University while the investigation is pending, this withdrawal may be considered permanent and the Respondent's transcript may note that there was a withdrawal while under investigation for sexual violence, when required by law. Even if a Respondent withdraws from the

University, the Title IX Coordinator may proceed with further action as necessary to eliminate, prevent or address any impacts of the reported conduct.

Safeguarding the Privacy of Complainants and Respondents

Individuals involved in investigations or disciplinary proceedings under this policy are encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid the appearance of retaliation. While discretion regarding the process is important, Complainants and Respondents are not restricted from discussing and sharing information with others who may support or assist them during the process. All parties, however, are encouraged to maintain the privacy of Family Educational Rights and Privacy Act (FERPA)-protected and/or sensitive information gathered or learned in the process.

Coordination with Law Enforcement

If there is a concurrent criminal investigation, the University will seek to work in a collaborative manner in order to respect the integrity of external investigations and University investigations. This may include contacting the law enforcement agency that is conducting any investigation to inform that agency that a University investigation is also in progress, attempting to ascertain the status of the criminal investigation, and seeking to determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation.

At the conclusion of the fact-gathering portion of the investigation, the Investigator will prepare a preliminary investigative report that provides the Complainant and the Respondent equal and timely access to information that will be used in determining whether there was a policy violation. The preliminary investigative report and accompanying documents will be made available to the Complainant and the Respondent to review. After reviewing the preliminary investigative report, each Party will have five business days to:

1. provide written comment or feedback,
2. submit additional information,
3. identify additional witnesses, and/or
4. request the collection of other information by the Investigator.

The Investigator will determine the appropriateness of additional investigative steps and the relevance of additional information. If either Party provides a written response or makes a request for additional investigation, the written response and any additional information gathered by the Investigator will be shared with the other Party and incorporated as appropriate in the final investigative report. Any information gathered through additional investigation steps will be shared with both parties, and, as appropriate, each will have the opportunity for further response. Typically, each Party will have three business days to review any additional substantive information.

As necessary, the Investigator will designate reasonably prompt timeframes to ensure a timely completion of the process while also providing an adequate opportunity for both parties to respond thoroughly to the information gathered during the investigation. In the absence of good cause, information that could have been learned that is not provided to the Investigator upon review of the preliminary investigative report will not be considered in the determination of responsibility for a violation of the policy.

Final Investigative Report

Unless there are significant additional investigative steps requested by the parties or identified by the Investigator, normally within five business days after receipt and consideration of additional comments,

questions and/or information from the parties, the Investigator will prepare a final investigative report. Both parties will receive simultaneous written notification of the availability of the final investigative report.

Actions upon Completion of Final Investigative Report

Where there has been a finding that sufficient evidence exists to support one or more policy violations, the final investigative report will simultaneously be shared with the Disciplinary Authority for the determination of appropriate sanctions and/or corrective action. As set forth below, both the Complainant and Respondent may participate in that process. Where there has been a finding that insufficient evidence exists to support a policy violation, the Complainant may appeal the finding by following the procedures set forth in the Appeal section below. Both the Complainant and Respondent may participate in the Appeal process.

E. PRE-HEARING & HEARING PROCESS

The Title IX Coordinator, may refer a case for formal resolution to Panel Hearing. The Title IX Coordinator will serve as an Advisor to the process. Hearing Officers for both hearing processes are chosen from a pool of faculty and staff members trained in Title IX and related issues including, but not limited to, issues related to sexual assault (non-consensual sexual contact or non-consensual sexual intercourse), dating and domestic violence, and stalking. A Chair will be appointed to preside over the Hearing process.

Pre-Hearing Process

The Parties will be provided with a written Notice of Hearing stating the time, date, and place of the hearing. The Notice of Hearing will be provided to the parties at least at least five (5) business days prior to the hearing unless the Parties and the Title IX Coordinator have agreed to proceed more quickly. No less than three (3) business days prior to the scheduled hearing, either Party may request, in writing, that the scheduled hearing date be changed due to a stated conflict. The Title IX Coordinator will evaluate the request and determine whether there is valid cause to change the hearing date. The Notice of Hearing will identify the faculty or staff member(s) serving as the Hearing Officer(s). If any Party objects to any individual serving as a Hearing Officer based on a perceived bias or conflict of interest, such concerns must be raised in writing to the Title IX Coordinator no less than three (3) business days prior to the scheduled hearing. The Title IX Coordinator will evaluate the concerns and appoint a new Hearing Officer(s) if valid cause, as determined by the Title IX Coordinator exists. Two (2) business days prior to the hearing, each Party must provide the Title IX Coordinator with the identity of their Advisor.

Hearing Process

The hearing process is designed for both the Complainant and Respondent to present their accounts of an incident. The hearing will be prompt, fair, and impartial.

Review and determination by Hearing Officers will be conducted according to the following guidelines:

- Hearings will be closed to the public.
- The parties have the right to be present at the hearing; however, they do not have the right to be present during deliberations.
- If Parties fail to appear at the hearing, the hearing officer(s) reserve the right to proceed as scheduled.

- Persons other than the parties and their Advisors (discussed below) may be admitted to the hearing at the discretion of the Hearing Officer(s).
- The Hearing Officer(s) may limit contact or interactions between the Complainant, Respondent, and/or Witnesses.
- The Hearing Officers will be provided with a copy of the investigator's Final Investigative Report, including documentary and physical evidence or information included in the report. The Hearing Officers also will be provided with any written comments to the investigator's Final Investigative Report submitted by the Parties.
- The Hearing Officer(s) may pose questions to the Parties and Witnesses. The Parties also will be given the opportunity to submit questions to the Hearing Officer(s) directed toward the other Party. The Hearing Officer(s) may use discretion in deciding whether to ask a particular question submitted by a Party.
- All procedural questions are subject to the final decision of the Chair of the Panel Hearing.
- The Hearing Officer(s) will use a preponderance of evidence standard in deciding whether the Respondent is responsible for violating the Sexual and Gender-Based Harassment and Interpersonal Violence Policy (as to each alleged violation). This standard requires a finding that it is more likely than not that the Respondent is responsible for violating the Sexual and Gender-Based Harassment and Interpersonal Violence Policy (as to each alleged violation).
- Panel Hearings will be decided by a majority vote of the Hearing Officers.

The Hearing Officer(s) will prepare a written Deliberation Report and deliver it to the Title IX Coordinator. The Deliberation Report should state the decision of responsibility or no responsibility as to each alleged Sexual and Gender-Based Harassment and Interpersonal Violence Policy violation, how each Hearing Officer voted, explain the basis for the decision, and recommended sanction or corrective action. The report should not exceed two (2) pages in length and must be submitted to the Title IX Coordinator within two (2) business days following the hearing. The Title IX Coordinator, will review the Deliberation Report to ensure Final Decision is in compliance with Title IX Regulations.

F. NOTIFICATION OF OUTCOME

The Complainant and the Respondent will both be notified simultaneously in writing of the findings of the Panel Hearing. Notification to the Complainant will include findings related to violations of policy, remedies offered or provided to the Complainant, sanctions imposed on the Respondent that directly relate to the Complainant, and any other steps the University has taken to prevent the recurrence and eliminate a hostile environment, if such was found to exist. The Respondent generally will be notified of the findings and sanctions, including individual non-confidential remedies offered or provided to the Complainant. Complainants and Respondents are informed of appeal procedures and any changes to the outcome that occur prior to the time that such outcome becomes final. The University encourages the Parties to maintain confidentiality of all communication related to findings and sanctions.

G. SANCTIONS

When a violation of the Policy is found, sanctions are determined based on several factors, including the severity of the conduct and any prior policy violations. In addition, the University may take steps to address the effects of the conduct on victims and others, including, but not limited to, counseling and support resources, academic and housing assistance, change in work situations, leaves of absence, and training or other preventative measures. Sanctions and remedial actions aim to eliminate any hostile environment, prevent sexual misconduct from recurring, and remedy any discriminatory effects on a Complainant or others. Sanctions and corrective actions can include, but are not limited to:

The following are the typical sanctions that may be imposed upon students or organizations singly or in combination:

- Letter of Warning
- Disciplinary Probation
- Suspension
- Expulsion/ Dismissal
- Withholding Diploma
- Revocation of Degree
- Transcript Notation
- Educational Project
- Suspension from Housing
- Restitution
- Restricted Access

The following are the typical sanctions that may be imposed upon faculty or staff:

- Warning – Written or Verbal
- Performance Improvement Plan
- Required Counseling
- Required Training or Education
- Demotion
- Loss of Annual Pay Increase
- Suspension without Pay
- Suspension with Pay
- Revocation of Tenure
- Termination

V. APPEALS PROCESS

The Complainant or Respondent may appeal the outcome by submitting a written appeal within three (3) business days of the date of the Notice of Outcome. The appeal will be conducted in an impartial manner and equivalent procedural rights will be provided to both parties throughout the process.

Both parties have the right to appeal final determination of responsibility and/or the resulting sanction based on the following limited grounds:

1. Substantial procedural error or bias that materially affected the outcome and/or sanction; or
2. New evidence not reasonably available at the time of the hearing.

A concise written request for appeal must be submitted to the Title IX Coordinator within three (3) business days following delivery of the notice of the outcome. Each Party may respond in writing to any appeal submitted by the other Party. Written responses must be submitted within three (3) business days following delivery of the notice of the written appeal. Written requests for appeal submitted by one Party will be shared with the other Party.

Appeals are reviewed by a designated Appellate Authority. The Title IX Coordinator shall have the discretion to designate as the Appellate Authority an administrator with appropriate training to serve as an informed and impartial decision-maker.

The Appellate Authority's responsibility will be strictly limited to determining if there was substantial procedural error that materially affected the outcome and/or new evidence not reasonably available at the time of the hearing. If either or both are found by the Appellate Authority, the appeal will be granted. If the appeal is denied, the matter is closed. The Title IX Coordinator will notify the parties in writing of the Appellate Authority's decision.

If the appeal is granted:

1. due to a substantial procedural error, the matter shall be heard by a new Hearing Panel or the Appellate Authority may remand the matter for further process to remedy the error (based on the nature of the procedural error);
2. due to the discovery of new evidence not reasonably available at the time of the initial hearing, the matter will be returned to the same Hearing Panel that originally heard the matter for reconsideration in light of the new evidence.

In the event of a reconsideration, the Appellate Authority will give the Hearing Panel instructions in writing regarding the nature and extent of its reconsideration. The Hearing Panel will act promptly to reconsider the matter consistent with those instructions. Following reconsideration, the finding of the Hearing Panel will be final and not subject to further appeal. The Title IX Coordinator will notify the parties in writing of the outcome.

VI. REVISION

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator. Rochester University reserves the right to update this document as necessary and those updates are enforced immediately upon being posted online. The Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any Party, such as to accommodate summer schedules, etc. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.