Student Sexual Misconduct and Harassment Policy

ROWAN UNIVERSITY POLICY

Title: Student Sexual Misconduct and Harassment Policy
Subject: Equity and Diversity
Policy No: SL: 2016:15
Applies: University-Wide
Issuing Authority: President
Responsible Officer: Associate Vice President and Title IX Coordinator of the Division of Diversity, Equity and Compliance, Office of Student Equity and Compliance
Adopted: 08/18/2016
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I. PURPOSE

Student members of the University community have the right to access and benefit from the educational and other programs and services of the University free from any form of sexual violence, harassment or exploitation. Rowan University does not tolerate sexual misconduct or harassment of any kind. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated.

II. ACCOUNTABILITY

Under the direction of the President, Associate Vice President and Title IX Coordinator of the Division of Diversity, Equity and Inclusion, Office of Student Equity and Compliance shall implement and ensure compliance with this policy.

III. APPLICABILITY

This policy applies to all students of Rowan University from the time of their acceptance and admission into the University until the date of their graduation. Regardless of where the prohibited conduct occurs, this Policy applies if the Respondent (the accused party) is a student of Rowan University. This Policy also applies to all prohibited conduct that occurs on University property (i.e., on campus) by visitors. Complaints against Rowan employees and vendors will be handled under the Policy Prohibiting Discrimination in the Workplace. Questions or concerns related to employees should be directed to Rowan University’s Title IX Coordinator.

IV. TITLE IX

Title IX of the Education Amendments of 1972 is a federal law that prohibits sex discrimination in the University’s programs and activities. It reads: “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 education program or activity receiving Federal financial assistance.” As a recipient of Federal financial assistance, Rowan University has jurisdiction over complaints alleging sex discrimination, including sexual harassment and sexual violence.

Title IX of the Education Amendments of 1972

V. STANDARD OF EVIDENCE
VI. POLICY STATEMENT

1. This policy applies equally to all Rowan students regardless of their sex, gender identity, gender expression, affectional or sexual orientation. This policy covers all female, male, gender non-conforming, and transgender students. A violation of this policy may also be a violation of the New Jersey Law Against Discrimination (N.J.S.A.10:5-12) which makes it unlawful to subject people to differential treatment based on many categories, including: sex, affectional or sexual orientation, and gender identity.

2. When an alleged violation of this policy is brought to the attention of the University, the University will promptly take effective steps to end the misconduct, prevent further violations, and remedy the effects of the violation on the Complainant (the reporting party) and others, if appropriate. In the event that a Complainant elects not to report or is unable to report the violation, the University will undertake reasonable efforts to investigate what occurred.

3. The University reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct in order to protect students’ rights and the personal safety of members of the community. While the University’s investigation is pending, the University will offer interim measures to protect the parties and others. Interim measures may include but are not limited to: safety plan development, no contact directives, interim suspension from campus or residence privileges, modification of living arrangements, change of on-campus student housing assignment, academic accommodations, changing transportation and working situations, assistance with the University disciplinary process, referrals to on-campus resources or reporting to police. The University will maintain as confidential any protective measures provided to the Complainant, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the protective measures. These measures can be offered regardless of whether or not the Complainant chooses to report the crime to Rowan Public Safety or local law enforcement.

4. Prohibited conduct under this policy may also constitute a violation of federal, state or local law and a student may be charged in the criminal justice system as well as under this policy. Alternatively, charges can occur for violations of this policy which may not be violations of the law. The criminal justice system is different from this Title IX/Student Conduct process. The University reserves the right to reach its own determination on violations of this policy independently of the outcome of any civil or criminal proceeding. The University retains the right to hear a sexual misconduct case before, after, or during the pendency of the civil or criminal matter. If a case is going through the criminal justice system, and a report has also been made to the University, the Title IX process at the University may proceed normally during the pendency of the criminal proceedings. As the Title IX/Student Conduct process is an educational disciplinary process, the legal rules related to evidence, criminal procedure, civil procedure and administrative procedure do not apply to this process.

VII. DEFINITIONS OF PROHIBITED CONDUCT

The following behaviors constitute sexual misconduct and are prohibited under this policy. All forms of sexual misconduct are serious offenses and will result in University disciplinary consequences.

1. **Non-Consensual Sexual Intercourse or Penetration (Rape)** means the penetration, no matter how slight of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person without consent. Sexual Intercourse includes (a) vaginal penetration by a penis, object, tongue, or finger; (b) anal penetration by a penis, object, tongue, or finger; and (c) any contact, no matter how slight, between the mouth of one person and the genitalia of another person.

2. **Non-Consensual Sexual Contact (Fondling)** means any intentional sexual touching, however slight, with any body part or any object, without consent. Examples of non-consensual sexual contact may include: genital-genital or oral-genital contact not involving penetration; contact with breasts, buttocks, or genital area, including over clothing; removing the clothing of another person; and kissing.
3. **Sexual Exploitation** – behavior that takes, or facilitates the taking of, non-consensual sexual advantage of any person to benefit any other person when the behavior does not otherwise constitute a sexual misconduct violation. Examples of sexual exploitation include but are not limited to:
   a. Prostituting another person.
   b. Taking a non-consensual video, photograph, or audio-recording of sexual activity without the other’s permission; taking a photograph or video of someone’s private parts (including genitals, groin, buttocks, or breasts) without permission; the transmission or dissemination (including, but not limited to, distribution via social media) of such a video, photograph or audio-recording without permission.
   c. Allowing third parties to observe private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g., Skype or live-streaming of images).
   d. Voyeurism or spying on persons where they have a reasonable expectation of privacy.
   e. Knowingly transmitting a sexually transmitted infection to another person without the other’s knowledge.

4. **Intimate Partner Violence** includes dating and domestic violence.
   a. **Domestic violence** means a felony or misdemeanor crime of violence committed:
      i. By a current or former spouse or intimate partner of the student,
      ii. By a person with whom the student shares a child in common,
      iii. By a person who is cohabitating with, or has cohabited with, the student as a spouse or intimate partner,
      iv. By any other person against an adult or youth student who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
   b. **Dating violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the student.
      i. The existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.
      ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

5. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: fear for his or her safety or the safety of others; or suffer substantial emotional distress.
   a. Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
   b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the reporting student.
   c. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

6. **Other Sexual Misconduct** – inappropriate sexual behaviors not covered previously in this section. Examples include but are not limited to sexual activity in public places.

7. **Sexual/Gender-Based Harassment**
   a. Sexual/gender-based harassment is unwelcome sexual or gender based verbal or physical conduct that unreasonably interferes with or deprives others of their right to access and benefit from the programs and services of the University. Sexual harassment offenses fall into two general categories.
   b. **Hostile Environment**- harassing conduct that is sufficiently severe, pervasive/persistent and objectively offensive that it substantially interferes with the conditions of education or employment, from both a subjective (the student’s) and an objective (reasonable person’s) viewpoint. The determination of whether an environment is “hostile” will be based on all of the circumstances. These circumstances could include but are not limited to:
      i. the frequency of the conduct;
      ii. the nature and severity of the conduct;
      iii. whether the conduct was physically threatening;
      iv. whether the conduct was humiliating;
v. whether the conduct was directed at a specific individual or more than one person;
vi. whether the conduct arose in the context of other discriminatory conduct;
vii. whether the conduct unreasonably interfered with the alleged Complainant's educational or work performance;
viii. whether the statement is an utterance of an epithet which offends an employee or student, or offenders by discourtesy or rudeness; or
ix. whether the speech or conduct is excluded from the protections of free speech or academic freedom.
c. **Quid-pro-Quo** - A violation of this type exists when there are:
   i. unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and
   ii. submission to or rejection of such conduct results in adverse educational access or employment action.

8. **Retaliation**: Any harassment or adverse action taken against a person because of that person's participation in a complaint or investigation of sexual misconduct will be treated as a separate violation of this policy and will result in immediate action by the University to stop the retaliatory behavior, prevent further violations by the perpetrator, and remedy any adverse impact of the violation.

9. **False Reports**: Intentionally making a report of prohibited conduct to a University official knowing, at the time the report was made, that the prohibited conduct did not occur and the report was false.

10. **Attempted Violations**: A person commits an attempted violation, when, with intent to commit a specific violation, he does any act which constitutes a substantial step toward the commission of that violation. The University will treat attempts to commit any of the violations described in this policy as if those attempts had been completed.

**VIII. Additional Definitions**

1. **Consent**
   a. Consent to sexual activity is informed, knowing, voluntarily and freely given permission to engage in mutually agreed upon sexual activity. The University will apply a reasonable person standard in determining whether or not consent was given, unless otherwise required by law.
      i. The person giving consent must be capable of doing so freely, with the ability to understand what they are doing and the specific details (who, what, when, where, and how) of the sexual contact they are consenting to.
      ii. Consent may be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity.
      iii. It is the obligation of the person initiating sexual contact to obtain clear consent for the specific type of sexual contact sought.
      iv. Lack of protest does not constitute consent. Silence or passivity without words or actions that communicate mutually understandable permission cannot be assumed to convey consent.
      v. Use of violence, threats, coercion or intimidation invalidates any consent given.
      vi. Consent for one form of sexual contact does not imply consent to other forms. For example: consent to vaginal sex does not imply consent to oral sex; consent to vaginal sex does not imply consent to anal sex.
      vii. Past consent does not constitute consent for future sexual activity.
      viii. Persons who are unable to give valid consent under New Jersey law, (i.e. minors, individuals with mental health disabilities) are considered unable to give consent under NJ State Policy N.J.S.A.2C:4-2.
      ix. Consent cannot be given by a person who is unconscious or sleeping. If consent has been given while a person is conscious or awake, and then that person becomes unconscious or falls asleep, consent terminates at that point.
      x. Persons who are incapacitated due to the use of drugs or alcohol cannot give consent.
   b. **Consent to bodily harm**. When conduct constitutes a violation of this policy because it causes or threatens bodily harm, consent to such conduct or to the infliction of such harm is a defense if:
      (1) the bodily harm consented to or threatened by the conduct is not serious, or (2) the conduct
Incapacitation

1. **Incapacitation** is the physical and/or mental inability to make informed, rational judgements and decisions. States of incapacitation include sleep, unconsciousness, and blackouts. Where alcohol or drugs are involved, incapacitation is determined by how the substance impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgements.

2. In evaluating whether a person was incapacitated for purposes of evaluating effective consent, the University considers two questions:
   a. Did the person initiating sexual activity know that their partner was incapacitated? And if not,
   b. Should a sober, reasonable person in the same situation have known that their partner was incapacitated?
   c. If the answer to either of these questions is “yes,” effective consent was absent.

3. For purposes of this policy, incapacitation is a state beyond drunkenness or intoxication. A person is not incapacitated merely because they have been drinking or using drugs. The standard for incapacitation does not turn on technical or medical definitions, but instead focuses on whether a person has the physical and/or mental ability to make informed, rational judgments and decisions.

4. A person who initiates sexual activity must look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may manifest signs of incapacitation differently, typical signs include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand some or all of the following questions: “Do you know where you are?”, “Do you know how you got here?”, “Do you know what is happening?”, “Do you know whom you are with?”

5. Because the impact of alcohol and other drugs varies from person to person, one should be cautious before engaging in sexual contact or intercourse when either party has been drinking alcohol or using other drugs. The introduction of alcohol or other drugs may create ambiguity for either party as to whether effective consent has been sought or given. If one has doubt about either party’s level of intoxication, the safe thing to do is to forgo all sexual activity.

IX. REPORTING OPTIONS

Students who experience sexual misconduct and those who have knowledge of sexual misconduct or harassment are strongly encouraged to report this information as soon as possible. Prompt reporting of incidents greatly improves the ability of the University and law enforcement to provide support resources to students and to address the violations effectively. Although there is no time limit for reporting sexual harassment or misconduct offences, delays in reporting may reduce the ability of the University and law enforcement to investigate and respond to incidents. After an incident of sexual assault and domestic violence, the student should consider seeking medical attention as soon as possible. In New Jersey, evidence may be collected even if you chose not to make a report to law enforcement.

1. Reporting to Law Enforcement
   a. Where criminal behavior is involved, the University encourages, and will assist students with, reporting to law enforcement. However, students have the right to decline notifying law enforcement. For criminal offenses that occur on the University campus, students should immediately contact Rowan Public Safety, 856-256-4911. Rowan Public Safety can assist students in contacting and filing a complaint with any other agency when the incident did not occur on campus.
      i. Glassboro campus - Glassboro Police Department, 1 South Main Street, Glassboro, NJ 856-881-1500 [http://www.glassboropd.org/]
      ii. Camden campuses - Camden County Metro Police, 800 Federal Street, Camden, NJ 856-757-7440 [http://camdencountypd.org/]
      iii. RowanSOM campus – Stratford Police Department, 315 Union Ave., Stratford, NJ 856-783-8616, [https://som.rowan.edu/oursom/campus/safety.html]
b. LGBTQ (Lesbian, Gay, Bisexual, Transgender and Queer) students should know that every Rowan Public Safety Officer will assist them should they choose to report sexual misconduct. However, if an LGBT student would like to speak directly with the Rowan University LBGT police liaison, Sgt. Rachel Baum.

c. Behavior that constitutes a violation of this policy may also be a crime under the laws of the State of New Jersey. The state defines the following criminal behavior:
   i. Sexual assault
   ii. Domestic and dating violence N.J.S.A.
   iii. Stalking
   iv. Consent in relation to sexual activity

2. Reporting to the University
a. A student may choose to report to the University before they have made a decision about whether or not to report to law enforcement. A student has the right to file a criminal complaint and a Title IX complaint simultaneously.

b. Once a report has been received, the University will provide written notification to students about existing counseling, health, mental health, student advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services that are available at Rowan and in the surrounding communities. For more information on these services please see click here or visit rowan.edu/equity/titleix.

c. Complaints of sexual misconduct or harassment may be made to any of the following University administrators:

   **Title IX Coordinator:**

   **Monise Princilus**, Ed.S., Associate Vice President and Title IX Coordinator of the Division of Diversity, Equity and Inclusion, Office of Student Equity and Compliance
   203 Savitz Hall 856-256-5440, princilus@rowan.edu
   Responsibilities: Monitoring and oversight of overall implementation of Title IX compliance at Rowan University. The Title IX Coordinator should be contacted for all complaints against faculty, staff, and visitors including those complaints filed by students.

   **Title IX Deputy Coordinators:**

   **Dr. Penny McPherson-Myers**, Vice President, Diversity, Equity and Inclusion
   203 Savitz Hall 856-256-4086, mcpersonp@rowan.edu

   **Mr. Joseph Mulligan**, Assistant Vice President for Civic Involvement
   Chamberlain Student Center 2nd floor
   856-256-4242, mulligan@rowan.edu

   **Mr. Travis Douglas**, Assistant Vice President for Residential Learning and Inclusion Programs
   **Deputy Coordinator for LGBTQ students**
   Savitz Ground Floor
   856-256-4266, douglast@rowan.edu
   Responsibilities: Compliance for matters involving students, including training, education, communication and administration of grievance procedures for all complaints against students; facilitates interim measures including no-contact directives, housing accommodations, and interim suspensions.

   **Title IX Deputy Coordinator for Athletics:**

   **Ms. Penny Kempf**, Associate Athletic Director
   **Deputy Coordinator for LGBTQ students**
   Athletics Office, Esby Gym
   856-256-4679, kempf@rowan.edu

   **Title IX Deputy Coordinator for Cooper Medical School of Rowan University:**
Title IX Deputy Coordinator for Rowan University School of Osteopathic Medicine:

Dr. Paula Watkins, Director of Enrollment Services  
Suite 210 Academic Center, One Medical Center Drive, Stratford, NJ  
856-566-7050, fennerpa@rowan.edu

Title IX Deputy Coordinator for Graduate School of Biomedical Sciences:

Dr. Diane Worrad, Director  
42 East Laurel Road, UDP, Suite 2200, Stratford, NJ  
856-566-6282, worrad@rowan.edu

Title IX Deputy Coordinator for Graduate Medical Education:

Sheila Seddon, Assistant Director  
Academic Center Stratford, NJ  
856-566-2742, seddonsm@rowan.edu

3. Other reporting options:

a. Students may file a claim with the Office of Civil Rights, U.S. Department of Education.

New Jersey, New York, Puerto Rico, Virgin Islands Office for Civil Rights  
New York Office U.S. Department of Education  
32 Old Slip, 26th Floor  
New York, NY 10005-2500  
Telephone: 646-428-3800 Fax: 646-428-3843 E-mail: OCR.NewYork@ed.gov

X. Confidentiality

When the University is made aware of a report or allegation of sexual misconduct or harassment, the University will endeavor to maintain the confidentiality of the matter and of all individuals involved to the extent permitted by law. The University will balance the needs of the individuals involved (Complainant, or reporting party, and Respondent, the accused party) with its obligation to fully investigate allegations and to protect the safety and wellbeing of the community at large. In all cases, the University and its employees will respect the dignity and rights of all individuals involved.

1. Responsible Employees: When consulting campus resources, students should be aware that certain campus authorities are Responsible Employees who are mandated to report and take action after receiving information regarding sexual misconduct and harassment. These include, but are not limited to, Public Safety Police and Security Officers, managers and supervisors, coaches, club and organization advisors, faculty, Deans, and Residential Learning staff (Resident Assistants, Community Safety Assistants, Resident Directors, and Residential Learning Coordinators). If a student has reported information to a Responsible Employee, but the student would like for the report to remain confidential, the student should contact the Title IX Coordinator, who will evaluate the student’s request for confidentiality.

2. Confidential Resources

a. Students who desire that details of an incident be kept confidential can receive confidential services through the Counseling & Psychological Services Center (856-256-4333), which is located in the Wellness Center at Winans Hall. Counselors with specialized training are available to support students who report sexual violence. Counselors are available to help you free of charge, and can be seen on an emergency basis. The Student Health Center (856-256-4222)
can also provide confidential consultation with students and may offer treatment to prevent sexually transmitted infections or pregnancy. In circumstances where the Health Center is unable to offer these services, they will provide a referral to an appropriate medical resource. In addition, you may speak with members of the clergy, who will also keep reports made to them confidential.

- LGBTQ students who would like to speak with a confidential resource should know that every counselor at the Wellness Center is committed to supporting students of all gender identities, gender expressions, and sexual orientations.
- When speaking with these resources, a student’s right to confidentiality is legally protected. However, there are limits to this protection in specific situations. For example, if a student discloses that the incident involved the use of a weapon or other contraband as defined by New Jersey law, or there is an ongoing threat or danger to the safety of another person (particularly children or the elderly), these resources may be required to report the incident to police.

### 3. Federal Statistical Reporting and Federal Timely Warning Obligations

- Certain campus officials have a duty to report sexual misconduct for federal statistical reporting purposes. All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, etc.- with addresses withheld), for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime to ensure greater community safety. Mandated federal reporters include: Student Life managers or supervisors, campus law enforcement, local police, coaches, athletic directors, Resident Assistants and Resident Directors, student activities staff, human resources staff, advisors to student organizations and any other staff members with significant responsibility for student and campus activities.

- Students who report sexual misconduct should also be aware that University administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the community to aid in the prevention of similar occurrences. The University will withhold the names and other personally identifiable information of students as confidential, while still providing enough information for community members to make decisions related to their safety in light of the danger. The individuals required to report for timely warning purposes are exactly the same as detailed at the end of the previous paragraph.

### XI. Resolution Procedures

#### 1. Voluntary Resolution Procedures

- Upon request by the parties, some complaints of sexual misconduct can be resolved through voluntary resolution processes that are facilitated by the Title IX Coordinator or designee. The Title IX Coordinator, the DEI Title IX Investigation Manager or other designated administrator will determine whether voluntary resolution is appropriate depending upon the complaint allegations.

- If appropriate, the Title IX Coordinator or designee may arrange for or facilitate mediation between the involved parties or coordinate other voluntary resolution. Voluntary resolution procedures will be initiated within ten (10) calendar days of the receipt of the Complainant’s request for voluntary resolution. The voluntary resolution procedure will be completed within sixty (60) days. All timeframes set forth in this policy may be extended by the DEI Title IX Investigation Manager or other administrator for good cause, with written notice to the Complainant and the Respondent of the delay and the reason for the delay.

- Voluntary resolution procedures are optional and may be terminated at any time by the parties. A voluntary resolution agreement, which outlines the terms agreed upon by the parties, will be provided to both parties simultaneously by the Title Coordinator or appropriate administrator. If either party is unsatisfied with the outcome of the voluntary resolution procedures, the formal resolution procedures may be pursued. If either party alleges that the terms of the voluntary resolution agreement have been breached, the formal resolution procedures will be initiated.

#### 2. Formal Resolution Procedures

The formal resolution procedure will be initiated upon request by either party or when the University determines it is necessary.

- **Written Notice:** Once a formal resolution procedure has been initiated, all parties will receive written notice.
i. This notice will include the following: a brief summary of the allegations; the relevant policy provisions defining the elements of the charges (prohibited conduct) at issue; information related to available resources and services; a brief overview of the formal Title IX process.

ii. Once the Respondent has received written notice of the formal procedure, the Complainant and the Respondent will be kept informed of all developments and will be advised of the procedures that will guide the resolution of the complaint.

iii. Details of the allegations will be given to the Respondent during the first investigatory interview.

b. **Confidentiality:** The student disciplinary process will be confidential to the extent possible and as allowed by law.

c. **Training:** The Title IX Coordinator, the DEI Title IX Investigation Manager, all persons conducting Title IX investigations, all administrative hearing officers and Sexual Misconduct Hearing Board Panel members, all appeals officers and Sexual Assault Appeals Board members will receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and a disciplinary process that protects the safety of the students and the University, and promotes due process and accountability.

d. **Timeline:** The University will ordinarily complete Title IX process, if any, within sixty (60) calendar days. The investigation will ordinarily be completed within 45 days and the disciplinary hearing (if any) will be completed 15 to 20 days following the resolution of the investigation. All timeframes set forth in this policy may be extended by the DEI Title IX Investigation Manager or designee for good cause, with written notice to the Complainant and the Respondent of the delay and the reason for the delay.

   i. The Complainant and Respondent will have the opportunity to make one request for a delay. A party’s extension request must be made in writing to the DEI Title IX Investigation Manager and must articulate a good cause for such delay.

   ii. The existence of a pending criminal matter does not constitute good cause for a party to request a delay.

   iii. An advisor’s unavailability does not constitute good cause for a party to request a delay.

e. **Investigation:** Once a report of sexual misconduct has been made, an investigation into the report will be initiated by the DEI Title IX Investigation Manager or designee within seven calendar days. Once a formal resolution procedure has been initiated, the Title IX Coordinator or designee will initiate an impartial, reliable, and thorough investigation.

   i. The investigation may be conducted by the DEI Title IX Investigation Manager alone, with another investigator, or by designees of the Title IX Coordinator. The investigation may also be conducted by an outside investigator retained by the University.

   ii. The Title IX Coordinator or designee will determine the manner in which the investigation is conducted.

   iii. The investigation may include any of the following: interviews of the parties involved, including witnesses, review of written statements, and the gathering of other relevant information.

   iv. Both parties will have the opportunity to present witnesses and other evidence.

 v. **Investigation Report:** The investigators will review all of the information gathered during the investigation and will prepare an initial investigation report which contains a summary of the information gathered during the investigation and preliminary findings of fact.

   1. This initial report will be shared with the parties simultaneously. After the parties have been provided the initial report, the parties will have the opportunity to provide additional or rebuttal information within seven (7) calendar days to the investigators.

   2. The investigators will review additional or rebuttal information provided, if any, and will generate a final investigative report.

   3. The final investigation report will include a comprehensive description of the evidence gathered during the investigation, the investigators’ findings of fact, and credibility assessments of any relevant witness or parties.

   4. While the investigators will make initial findings of facts and credibility determinations, the investigators will not adjudicate the matter and will not reach a determination as to whether or a violation of this policy occurred.
5. The parties will be provided with copies of the final investigation report simultaneously and will be advised that the parties may be subject to a hearing under the Student Disciplinary Process.

f. Advisors: The Complainant and Respondent have the right to an advisor of their choice during this process. An advisor may be a family member, an attorney, or any third party. Advisors are present to support the parties and to provide advice on procedural matters; advisors may not speak on behalf of the party.
   i. Advisors must adhere to all conditions and obligations under this policy and required by the University’s process.
   ii. The advisor has the right to accompany the student to any meetings with the investigators or University administrators. The student has the right to communicate with their advisor during any meeting.
   iii. The advisor does not have speaking privileges during investigatory interviews.
   iv. The Title IX Coordinator or designee will exercise control over the investigatory process. Anyone who disrupts an investigatory interview or who fails to adhere to University policies may be asked to leave an investigatory interview.
   v. Regardless of whether a party has an advisor, the DEI Title IX Investigation Manager or designee will correspond and communicate directly with the parties.

g. The Adjudicatory Hearing
   i. For complaints that will be adjudicated by the Student Disciplinary Process, the appropriate adjudicator will be determined as follows:
      1. Administrative Hearing Officer - If the alleged violation is one for which the Respondent student could not be suspended or expelled from the University, the complaint will be heard by an Administrative Hearing Officer.
      2. Sexual Misconduct Hearing Board - If the alleged violation is one for which the Respondent student could likely be suspended or expelled from the University, the complaint will be heard by the Sexual Misconduct Hearing Board.

   ii. Timeframe: The University will attempt to schedule a hearing within 20 business days after receipt of the final investigative report.
      1. The Respondent and the Complainant will receive timely notice in writing of the date and time of the hearing before the Sexual Misconduct Hearing Board or appropriate Administrative Hearing Officer.

   iii. Witnesses: The Respondent and the Complainant will have the opportunity to make a request to the Assistant Vice President for Civic Involvement for witnesses to participate in the hearing on their behalf. The parties will have an opportunity to present witnesses and other evidence.
      1. The Respondent and the Complainant must notify the Assistant Vice President of any advisors and witnesses attending the hearing 5 (five) business days prior to the hearing.
      2. If the Respondent, the Complainant, or any witness fails to appear at the hearing, the matter will be resolved in their absence.
      3. Witnesses may be present at the hearing only at the time they are called to participate. A hearing will not be cancelled or postponed if a scheduled witness does not attend.
      4. Any additional scheduling requests must be directed to the Assistant Vice President of Civic Involvement for determination.

   iv. Advisor: Each party may have one advisor with them during the hearing. The advisor does not have speaking privileges during the hearing, but the student may communicate with their advisor during the hearing if they choose.
      1. A hearing will not be cancelled or postponed in the event an advisor does not attend.
      2. If the advisor is not able to attend, the Respondent or the Complainant should arrange for a substitute advisor.

   v. The Assistant Vice President for Civic Involvement (or designee) will assemble a Sexual Misconduct Hearing Board of three trained staff members to hear the matter and will serve as the Chair. Each Sexual Misconduct Hearing Board will be composed of representatives of both genders.
The hearing officer or Chair of the Sexual Misconduct Hearing Board will exercise control over the manner in which the hearing is conducted to avoid unnecessarily lengthy hearings and to prevent the harassment or intimidation of witnesses.

1. This includes, but is not limited to, imposing reasonable limits on the number of factual witnesses that may participate.
2. Questions by the parties should be directed to the panel, not to the opposing party. The Chair has the authority to limit, restrict or re-direct the parties’ questions to prevent harassment, intimidation or irrelevance.
3. Anyone who disrupts a hearing or who fails to adhere to hearing procedures may be excluded from the proceeding.

Each Board member must indicate to the Assistant Vice President within three (3) days prior to the hearing whether they have knowledge of the participants in the case that may impair – or may be perceived to impair – their ability to hear and determine a case impartially, and to excuse themselves if their participation might compromise the integrity of the hearing process.

All hearings will be closed to the public.

Alternative Testimony: For all participating parties, alternative testimony options will be provided. Options include, placing a privacy screen in the hearing room, providing testimony from another room via conference phone or other options that provide a safe space for participation while not depriving any party of their rights in the process. While alternative testimony options are intended to help make one participating parties more comfortable, they are not intended to work to the disadvantage of the other participating party.

All hearings will be audio recorded. A digital file will be made available to the Complainant and/or Respondent student in the event a request for an appeal is filed.

Evidence Presented at the Hearing

1. Written statements of witnesses not in attendance may be considered by the Sexual Misconduct Board, if approved by the Chair.
2. In making its adjudication the Sexual Misconduct Hearing Board will consider only the evidence admitted at the hearing and the admission of evidence will be within the discretion of the Chair. Only the information and evidence related to the alleged violations set forth in the formal complaint will be considered.
3. Board members will be provided with access to the final investigative report, written information and evidence at least twenty-four (24) hours prior to the hearing. While board members may consider the investigators’ report and statements as evidence, the Sexual Misconduct Hearing Board Panel functions as an independent adjudicating body and will not be bound by any findings or credibility assessments made by the investigators.
4. The Title IX Coordinator or designated investigator may be called as witness.

Past Sexual History/Character: The past sexual history or sexual character of a student will not be admissible by the other party in investigatory interviews or hearings unless such information is determined to be highly relevant by the Title IX Coordinator or the Assistant Vice President of Civic Involvement. All such information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be included in the complaint/response or a subsequent written request, and must be reviewed in advance of the hearing by the Assistant Vice President.

1. If, in the past, the Respondent student was found to have violated the Student Sexual Misconduct Policy, the information related to that past violation may be considered in the hearing if: (a) the previous violation was substantially similar to the present complaint; and (b) the previous violation indicates a pattern of behavior and substantial conformity with that pattern by the Respondent student.

Hearing Procedure: At the start of the hearing, the Chair will ask if the Respondent has received the original notice letter and understands the nature of the charges.

1. The Chair will present the notice letter along with the information obtained through the investigative process to the Sexual Misconduct Hearing Board, if applicable. The remainder of the hearing will customarily proceed in the following order:
   a. Opening statement from the Complainant.
c. Complainant and Respondent questioning of witnesses and parties (each witness will be questioned separately).
d. Board questioning of witnesses (each witness will be questioned separately then excused).
e. Board questioning of the Complainant and the Respondent.
f. Respondent’s responding statement.
g. Complainant’s responding statement.
h. Final questions from Board
i. Respondent student’s closing statement.
j. Complainant’s closing statement.

xiv. **Deliberation:** The Sexual Misconduct Hearing Board will deliberate in private and make an appropriate independent determination based on the information presented during the hearing.

1. The Sexual Misconduct Hearing Board will have up to ten (10) business days to render a decision.
2. The Sexual Misconduct Hearing Board, by a unanimous decision, will determine whether or not the Respondent student violated the Sexual Misconduct and Harassment Policy.
3. If a determination of “In violation” is rendered, the Sexual Misconduct Hearing Board will determine an appropriate sanction(s) consistent with those specified in the Rowan University Student Code of Conduct, “Standard Sanctions for Sexual Misconduct and Harassment Violations”

xv. **Notification:** The Assistant Vice President will notify the Respondent and the Complainant simultaneously in writing of the decision. The Assistant Vice President will notify the Respondent and the Complainant simultaneously in writing of any change to the results prior to final imposition and the date of final imposition.

1. **Appeal Procedures**
   a. Upon receiving notification of the outcome of a hearing conducted by the Sexual Misconduct Hearing Board or the outcome of the conclusion reached by the Administrative Hearing Officer, the Respondent or the Complainant may file an appeal under the following circumstances:
      i. A procedural or substantive error occurred in the process that significantly impacted the outcome of the hearing (e.g. material deviation from university policy; substantial bias; the findings and decision are contrary to the great weight of the evidence);
      ii. New and significant information has become available which could not have been discovered by a properly diligent person before or during the hearing; or
      iii. The sanction is inappropriate in light of the violation.
   b. If information is brought to the Vice President for Student Life and Dean of Students that merits an appeal under any of the reasons stated above, the Vice President or designee can also file an appeal request.
   c. All appeals must be submitted within five (5) business days of the date on the letter informing the parties of the decision, unless extenuating circumstances (i.e., mental incapacity, hospitalization) impede the filing of the appeal. Appeals must be submitted in writing to the Assistant Vice President for Civic Involvement and should explain in detail the basis of the request, including any supporting documentation.
   d. Upon receipt of the written appeal, the Assistant Vice President for Civic Involvement will defer the imposition of the sanction(s) pending the decision on the appeal. However, interim suspension, no contact order directives and other interim restrictions will remain in effect during the appeal process.
   e. Cases adjudicated by the Sexual Misconduct Hearing Board will be forwarded to the Sexual Misconduct Appeals Board. All other cases will be forwarded to the Vice President for Student Life and Dean of Students or designee.
   f. An appeal will be responded to within fifteen (15) business days and a final decision will be issued in writing either accepting or denying the appeal and giving the reasons for this decision. **The Sexual Misconduct Appeals Board:**
The Assistant Vice President for Civic Involvement convenes the Sexual Misconduct Appeals Board. The Board is comprised of three members of the University's Administration (appointed by the Office of the President). Designees may be used in any of the positions. Each member must be in attendance for a quorum.

The Sexual Misconduct Appeals Board will review the written appeal and all documentation contained in the case file in a closed meeting. The decision to deny or uphold the appeal will be made by a simple majority vote. If an appeal is upheld based on procedural or substantive error or new information (reasons 1 or 2 above), the case will be remanded to the Sexual Misconduct Hearing Board for re-opening of the hearing. If an appeal is upheld based on disproportionate sanction (reasons 3), the Sexual Misconduct Appeals Board will render the appropriate sanction.

Normally, all Sexual Misconduct Appeals Board decisions are final and will be forwarded to the Office of Community Standards for immediate implementation. For cases involving an expulsion of a student, the Respondent, the Complainant, or the Vice President for Student Life and Dean of Students or designee (in Sexual Misconduct Hearing Board cases) may request that the University President's Chief of Staff review the decision of the Sexual Misconduct Appeals Board.

Chief of Staff Review: A request for review by the University President's Chief of Staff must be made within two (2) business days of the date on the letter informing the parties of the Sexual Misconduct Appeals Board decision. The request must be submitted in writing to the Office of Community Standards and must include clear and convincing reasons to change the decision of the Sexual Misconduct Appeals Board. The Chief of Staff may or may not elect to review a decision. The request for review will be responded to within 15 days by the Chief of Staff.

If the Chief of Staff elects to review the determination, the Chief of Staff shall only overturn the decision if the facts presented demonstrate that the Appeals Board's determination was arbitrary and capricious. This means that the decision will be overturned only if the decision was invalid because it was made on unreasonable grounds or without consideration of the circumstances. When it is not possible for the Sexual Misconduct Appeals Board to meet within the established time, an appeal from Sexual Misconduct Hearing Board cases may be reviewed by the Vice President for Student Life and Dean of Students for final disposition.

The appeals process described above will be the final step in the discipline process and constitutes final university action.

XII. SANCTIONS FOR VIOLATIONS

Not all forms of sexual misconduct will be deemed to be equally serious offenses, and the University reserves the right to impose differing sanctions, ranging from official warning to expulsion, depending on the severity of the offense. The University will consider the concerns and rights of the complainant and the Respondent of sexual misconduct.

The Administrative Hearing Officer or the Sexual Misconduct Hearing Board will determine the most appropriate sanction in each specific case, taking into consideration the severity of the conduct represented in the complaint as well as any mitigating circumstances. There will be no deviation from the range of standard sanctions unless compelling justification exists to do so. RowanSOM and CMSRU students should be aware that they may be subject to additional disciplinary action and/or sanctions due to the professional or ethical standards of RowanSOM and CMSRU.

1. Standard Sanctions for Sexual Misconduct Violations
   a. Any violation involving the use, attempted use; or threat of use of a weapon or other dangerous, illegal, or hazardous, object; or, the use or attempted use of a drug or intoxicant to incapacitate a person.
      i. First Violation - University Expulsion, Notification of Parent/Guardian
      ii. Second Violation - University Expulsion
   a. Any form of non-consensual sexual intercourse or penetration
i. **First Violation** - University Expulsion, University Suspension, Notification of Parent/Guardian

ii. **Second Violation** - University Expulsion

a. Non-consensual Sexual Contact without use of a weapon, drug or intoxicant; Domestic Violence; Dating Violence; Stalking; Sexual Exploitation or Sexual Harassment

i. **First Violation** - Disciplinary probation, University Suspension, or Expulsion; Suspension of Campus Housing Privileges (if the student is not Suspended from the University and lives in Campus Housing), educational sanctions, Notification of Parent/Guardian

ii. **Second Violation** - University Expulsion

## XIII. Special Provisions

1. **Policy of Immunity**

The University will grant immunity for using alcohol and other drugs to both the Complainant and the Respondent, unless the alcohol or other drug was used knowingly to perpetrate violence. No one should be fearful of obtaining resources or remedies from a violent crime because they were intoxicated.

In addition, the University will not pursue disciplinary action for drug or alcohol violations, or most other violations of the Student Code of Conduct, against a party or witness who comes forward in good faith to report sexual misconduct or harassment, crimes of violence, or other serious criminal behavior. See [Rowan University Good Samaritan Policy](#).

2. **Notification of Outcomes**

The outcome of a campus disciplinary hearing is part of the education record of the Respondent student and is protected from release under FERPA. However the University observes the exceptions as follows:

a. Complainants of incidents charged under the Student Sexual Misconduct Policy have a right to be informed simultaneously of the outcome and sanctions of the hearing, in writing. Complainants are also permitted to submit an appeal.

b. The University may release publicly the name, nature of the offense and sanction for any Respondent student who is found in violation of a University policy that is a sex offense or crime of violence (refer to [Student Code of Conduct](#), Section VI, 10)

c. Parents or guardians of the Respondent student may be notified for cases involving sex offenses or crimes of violence (refer to [Student Code of Conduct](#), Section VI, 10)

3. **University as Complainant**

As necessary, the University reserves the right to initiate a complaint, to serve as Complainant, and to initiate institutional disciplinary proceedings without a formal complaint by the student of sexual misconduct or harassment.

4. **Timeline**

All time frames set forth in this Policy may be extended by the DEI Title IX Investigation Manager or other administrator for good cause, with written notice to the Complainant and the Respondent of the delay and the reason for the delay.

## XIV. New Jersey Sexual Assault Complainant’s Bill of Rights

A college or university in a free society must be devoted to the pursuit of truth and knowledge through reason and open communication among its members. Academic communities acknowledge the necessity of being intellectually stimulating where the diversity of ideas is valued. Its rules must be conceived for the purpose of furthering and protecting the rights of all members of the university community in achieving these ends.

The boundaries of personal freedom are limited by applicable state and federal laws and institutional rules and regulations governing interpersonal behavior. In creating a community free from violence, sexual assault and non-consensual interpersonal contact, respect for the individual and human dignity are of paramount importance.

The state of New Jersey recognizes that the impact of violence on its students and the surrounding community can be severe and long lasting. Thus, it has established this Bill of Rights to articulate
requirements for policies, procedures and services designed to insure that the needs of students are met and that the colleges and universities in New Jersey create and maintain communities that support human dignity.

**Bill of Rights:** The following Rights shall be accorded to students of sexual assault that occur on the campus of any public or independent institution of higher education in the state of New Jersey, and where the student or alleged perpetrator is a student at that institution, and/or when the student is a student involved in an off-campus sexual assault.

1. **Human Dignity Rights:** to be free from any suggestion that students must report the crimes to be assured of any other right guaranteed under this policy; to have any allegations of sexual assault treated seriously; the right to be treated with dignity; to be free from any suggestion that students are responsible for the commission of crimes against them; to be free from any pressure from campus personnel to: report crimes if the student does not wish to do so, report crimes as lesser offenses than the student perceives the crime to be, refrain from reporting crimes, refrain from reporting crimes to avoid unwanted personal publicity.

2. **Rights to Resources On and Off Campus:** to be notified of existing campus and community based medical, counseling, mental health and student services for students of sexual assault whether or not the crime is formally reported to campus or civil authorities; to have access to campus counseling under the same terms and conditions as apply to other students in their institution seeking such counseling; to be informed of and assisted in exercising: any rights to confidential or anonymous testing for sexually transmitted diseases, human immunodeficiency virus, and/or pregnancy, any rights that may be provided by law to compel and disclose the results of testing of sexual assault suspects for communicable diseases.

3. **Campus Judicial Rights:** to be afforded the same access to legal assistance as the accused; to be afforded the same opportunity to have others present during any campus disciplinary proceeding that is allowed the accused; to be notified of the outcome of the sexual assault disciplinary proceeding against the accused.

4. **Legal Rights:** to have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported; to receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities; to receive full, prompt and student-sensitive cooperation of campus personnel with regard to obtaining, securing and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault.

5. **Campus Intervention Rights:** to require campus personnel to take reasonable and necessary actions to prevent further unwanted contact of students by their alleged assailants; to be notified of the options for and provide assistance in changing academic and living situations if such changes are reasonably available.

6. **Statutory Mandates:** Each campus must guarantee that this Bill of Rights is implemented. It is the obligation of the individual campus governing board to examine resources dedicated to services required and to make appropriate requests to increase or reallocate resources where necessary to ensure implementation. Each campus shall make every reasonable effort to ensure that every student at the institution receives a copy of this document. Nothing in this act or in any "Campus Assault Student's Bill of Rights" developed in accordance with the provisions of this act shall be construed to preclude or in any way restrict any public or independent institution of higher education in the state from reporting any suspected crime or offense to the appropriate law enforcement authorities.