



AP 3434 Responding to Harassment Based on Sex under Title IX

References:

20 U.S. Code Sections 1681 et seq.;
34 Code of Federal Regulations Parts 106.1 et seq.
BP 3433 Sexual Harassment Title IX
AP 3433 Sexual Harassment Title IX
AP 3435 Discrimination and Harassment Complaints and Investigations
AP 3430 Prohibition of Discrimination and Harassment

Introduction

Rogue Community College ("RCC") encourages members of the RCC community to report sexual harassment. This procedure only applies to conduct defined as sexual harassment under Title IX and applicable federal regulations and that meet Title IX jurisdictional requirements. RCC will respond to sexual harassment and sexual misconduct that falls outside that definition and outside the jurisdiction of the Title IX federal regulations using State law and applicable RCC policies and procedures. In implementing these procedures discussed below, RCC will also provide supportive measures, training, and resources in compliance with State law, unless they are preempted by the Title IX regulations.

Title IX Coordinator

Questions concerning Title IX may be referred to the RCC's Title IX Coordinator whose contact information is below:

RCC's Title IX Coordinator is Lucia Bartscher and the Title IX Coordinator's contact information is:

Redwood Campus – L Bldg. Rm 1

Table Rock Campus - TRC-A189

Phone: 541-956-7124

Email: LBartscher@roquecc.edu

The Title IX Coordinator is required to respond to reports of sexual harassment or misconduct. The Title IX Coordinator will handle information received with the utmost discretion and will share information with others on a need-to-know basis. For example, the Title IX Coordinator may need to address public safety concerns on campus, comply with State and federal legal requirements, or share information to implement supportive measures.

A report of sexual harassment to the Title IX Coordinator does not necessarily lead to a full investigation, as discussed more fully below. However, the Title IX Coordinator will make an assessment to determine if there is a safety risk to the campus. If the Title IX



Coordinator finds there is a continued risk, the Title IX Coordinator will file the formal complaint without the Complainant's consent or cooperation.

Title IX Harassment Complaints, Investigations, and Hearings

These Title IX sexual harassment procedures and the related policy protect students, employees, applicants for employment, and applicants for admission.

Jurisdictional Requirements – Application of Procedures

These procedures apply if the conduct meets the following three jurisdictional requirements:

- The conduct took place in the United States;
- The conduct took place in a RCC “education program or activity.” This includes locations, events, or circumstances over which the RCC exercised substantial control over both the Respondent and the context in which the harassment occurred, including on-campus and off-campus property and buildings RCC owns or controls or student organizations officially recognized by RCC.
- The conduct meets the definition of Title IX “sexual harassment.”

Definitions

Complainant: A Complainant is an individual who alleges they are the subject of conduct that could constitute sexual harassment.

Consent: Knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Consent is active not passive. Consent to any one form of sexual activity does not automatically imply consent to any other forms of sexual activity. Previous relationships or prior consent does imply consent to future sexual acts. Consent must be continuous and can be withdrawn at any time by either party. Consent can be withdrawn once given, as long as that withdrawal is clearly communicated. Once consent is withdrawn, sexual activity must stop immediately. In order to give consent, one must be of legal age and must not be considered incapacitated as defined under Oregon State Law. Oregon state law considers persons under the age of 18 to be “incapable of consenting to a sexual act” (ORS §163.315) and states that if lack of consent is solely a result of the age of the victim, it is a defense to certain crimes that the actor was less than three years older than the victim at the time of the alleged offense (ORS §163.345).

Decision-Maker: RCC may have one Decision-Maker determine whether the Respondent is responsible, and another Decision-Maker determine the appropriate level of penalty for the conduct. The Decision-Maker cannot be the Title IX Coordinator or the Investigator assigned to the case.

- Hearing Decision-Maker: The person who will oversee the live hearing and make a determination of responsibility.



- **Appeal Decision-Maker:** The Chief Human Resources Officer (“CHRO”) or Vice President of Student Services/Chief Student Services Officer (“VPSS”/“CSSO”) will serve as the Appeal Decision-Maker as appropriate.

Formal Complaint: A written complaint signed by the Complainant or Title IX Coordinator, alleging sexual harassment and requesting an investigation. If the Title IX Coordinator signs the formal complaint, they will not become a Party to the complaint.

Investigator: The person or persons charged by RCC with gathering facts about an alleged violation of this procedure, synthesizing the evidence, and compiling this information into an investigation report and file.

Notice: Means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of sexual harassment or retaliatory conduct.

Official with Authority (OWA): An employee of the Recipient explicitly vested with the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of the Recipient.

Parties: As used in this procedure, this means the Complainant and Respondent.

Preponderance of the Evidence Standard: This standard of proof is also known as “more likely than not” standard. This standard will be used to make determinations in all Title IX cases.

Process Advisor: Throughout the grievance process, both the Complainant and Respondent have a right to a Process Advisor of their choice. If a Party does not have a Process Advisor, RCC will provide the Party a Process Advisor. RCC may establish restrictions regarding the extent to which the Process Advisor may participate in the proceedings as long as the restrictions apply equally to both Parties. If a Party chooses a Process Advisor other than the one provided by RCC, the Party is responsible for any costs associated with that Process Advisor.

Respondent: A Respondent is an individual alleged to have engaged in conduct that could constitute sexual harassment.

Sexual Harassment under Title IX: Conduct that satisfies one or more of the following:

- A RCC employee conditions the provision of an aid, benefit, or service of RCC on an individual’s participation in unwelcome sexual conduct (*quid pro quo* harassment);

- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to RCC's education program or activity;
- Sexual assault, including the following:
 - **Sex Offenses.** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - **Rape** (except Statutory Rape). 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 the consent of the victim.
 - **Sodomy.** Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
 - **Sexual Assault with an Object.** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.
 - **Fondling.** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of /their temporary or permanent mental or physical incapacity.
 - **Sex Offenses, Non-Forcible Unlawful, Non-Forcible Sexual Intercourse.**
 - **Incest.** Sexual intercourse between persons who are related to each other within degrees wherein marriage is prohibited by law.
 - **Statutory Rape – Non-Forcible.** Sexual intercourse with a person who is under the statutory age of consent.
 - **Dating violence.** Violence against a person who is, or has been, in a social relationship of a romantic or intimate nature with the victim. The existence of a relationship will 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.
 - **Domestic Violence.** Violence committed:

- By a current or former spouse or intimate partner of the victim;
 - By a person with whom the victim shares a child in common;
 - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of Oregon; or
 - By any other person against an adult or youth victim protected from that person's acts under the domestic or family violence laws of Oregon.
- **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

Reporting Options

Any individual may report sexual harassment to RCC's Title IX Coordinator.

RCC strongly encourages prompt reporting of sexual harassment. Prompt reporting allows for the collection and preservation of evidence, including physical evidence, digital media, and witness statements. A delay may limit RCC's ability to effectively investigate and respond.

Individuals have the opportunity to decide whether they want to pursue a formal Title IX complaint. Reporting sexual harassment to the Title IX Coordinator does not automatically initiate an investigation under these procedures. A report allows RCC to provide a wide variety of support and resources to impacted individuals and to prevent the reoccurrence of the conduct. A Complainant or the Title IX Coordinator filing a formal complaint will initiate an investigation.

If there are parallel criminal and Title IX investigations, RCC will cooperate with the external law enforcement agency and will coordinate to ensure that the Title IX process does not hinder legal process or proceedings. RCC will cooperate to the fullest extent possible but will not be able to delay its process indefinitely.

RCC will document reports of sexual harassment in compliance with the Clery Act, a federal law requiring data collection of crime within the campus geography. Under the Clery Act, RCC does not document personal information; RCC reports the type of conduct, and the time, date, and location. (Also see BP/AP 3540 Sexual and Other Assaults on Campus.)

Nothing in this procedure precludes any party from making a report to law enforcement. Contact information for local law enforcement agencies is available on RCC's Title IX website.



Students may also make a complaint to the Department of Education Office of Civil Rights. Visit the US Department of Education's Office for Civil Rights website for information on filing a complaint.

RCC Employees and Officials with Authority

RCC Officials with Authority are not confidential resources and are required to report allegations of sexual harassment to the Title IX Coordinator promptly.

RCC has designated all Managerial/Supervisory employees as Officials with Authority.

Officials with Authority are required to report all relevant information they know about sexual harassment including the name of the Respondent, the Complainant, any other witnesses, and the date, time, and location of the alleged incident.

Responsible Employees – All non-confidential RCC employees are required to report allegations of sexual harassment to the Title IX Coordinator immediately. Responsible Employees are required to report all relevant information they know about sexual harassment including the name of the Respondent, the Complainant, any other witnesses, and the date, time, and location of the alleged incident.

Intake and Processing of Report

Receipt of Report

After receiving a report of sexual harassment, the Title IX Coordinator, or designee, will contact the Complainant and Respondent to explain rights under this policy and procedure and invite the Complainant to an in-person or virtual meeting. The Title IX Coordinator, or designee, will discuss supportive measures with the Parties.

Timeframe for Reporting

While all reports of sexual harassment will be reviewed under this procedure, to promote timely and effective review, RCC strongly encourages individuals to report sexual harassment as soon possible. A delay in reporting may affect the ability to collect relevant evidence and may affect remedies RCC can offer.

Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered free of charge to the Complainant or the Respondent regardless of whether a formal complaint has been filed. RCC will provide the Complainant and Respondent with supportive measures as appropriate and as reasonably available to restore or preserve equal access to RCC's education program or activities. These measures are designed to protect the safety of all Parties, protect RCC's educational environment, or deter sexual harassment. RCC will provide supportive measures on a confidential basis and will only make disclosures to those with a need to know to enable RCC to provide the service.



Supportive measures may include counseling, extensions of deadlines, other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work locations, changes in class locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Removal of Respondent Pending Final Determination

Upon receiving a report regarding sexual harassment, the Title IX Coordinator, in consultation with appropriate campus partners, will make an immediate assessment concerning the health and safety of the Complainant and campus community as a whole. RCC has the right to order emergency removal of a non-employee Respondent, or if the Respondent is an employee, place the Respondent on administrative leave.

Emergency Removal

RCC may remove a non-employee Respondent from RCC's education program or activity on an emergency basis after it conducts an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

RCC may not use emergency removal to address a Respondent's threat of obstructing the sexual harassment investigation or destroying relevant evidence. Emergency removal is only available to address health or safety risks against individuals arising out of sexual harassment allegations, not to address other forms of misconduct that a Respondent might commit pending the processing of a complaint.

RCC may conduct further individualized safety and risk analyses as needed as more information is obtained as part of an investigation.

RCC's Title IX Coordinator or designee in consultation with appropriate campus partners will conduct the individualized safety and risk analysis.

If the Title IX Coordinator or designee in consultation with appropriate campus partners determines emergency removal is appropriate, they or the designee will provide the person RCC is removing from campus on an emergency basis with a notice and opportunity to attend a meeting and challenge the basis of their removal. The Title IX Coordinator or designee in consultation with appropriate campus partners will reevaluate the individualized safety and risk assessment to determine whether the emergency removal from campus order is warranted after considering information provided by the Respondent challenging the emergency removal.

Administrative Leave

RCC may place a non-student employee Respondent on administrative leave during the pendency of a grievance process described in the formal complaint process below. RCC



will follow any relevant policies, procedures, collective bargaining agreements, or State law in placing an employee on administrative leave.

Formal Complaint Grievance Process

Notice to Parties

Upon receipt of a formal complaint, the Title IX Coordinator will provide the following notice in writing, to the Parties:

- Notice of RCC's Title IX grievance process;
- Notice of the allegations of alleged sexual harassment with sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
- Statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that the Parties may have a Process Advisor of their choice. If a Party does not have a Process Advisor RCC will provide them with a Process Advisor who has been trained on RCC policy and procedure.
- Notice that the Parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the RCC does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a Party or other source; and
- Inform the Parties of any provision in RCC's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, RCC decides to investigate allegations about the Complainant or Respondent that are not included in the notice provided above, the Title IX Coordinator will provide notice in writing of the additional allegations to the Parties.

Dismissal of Formal Complaint

RCC must investigate the allegations in a formal complaint. However, RCC must dismiss the formal complaint and will not process the complaint under these procedures if any of the following three circumstances exist:

- If the conduct alleged in the formal complaint would not constitute Title IX sexual harassment as defined in this procedure;
- If the conduct alleged did not occur in RCC's education program or activity;
- If the conduct alleged did not occur against a person in the United States.

RCC has discretion to dismiss a formal complaint or any allegation under the following circumstances:



- If at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations;
- If the Respondent is no longer enrolled or employed by RCC; or
- If there are specific circumstances that prevent RCC from gathering evidence sufficient to reach a determination regarding responsibility as to the formal complaint or allegations.

If RCC dismissed the formal complaint or any allegations, the Title IX Coordinator shall simultaneously provide the Parties with written notice of the dismissal and reason. RCC will also notify the Parties of their right to appeal.

RCC may commence proceedings under other policies and procedures after dismissing a formal complaint.

Consolidation of Formal Complaints

RCC may, but is not required to, consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Equitable Treatment of the Parties

RCC's determination of responsibility is a neutral, fact-finding process. RCC will treat Complainants and Respondents equitably. The procedures will apply equally to both Parties. RCC will not sanction a Respondent unless it determines the Respondent was responsible for sexual harassment at the conclusion of the grievance process.

Statement of Presumption of Non-Responsibility

The investigation is a neutral, fact-finding process. RCC presumes all reports are in good faith. Further, RCC presumes the Respondent is not responsible for the alleged conduct. RCC makes its determination regarding responsibility at a hearing at the conclusion of the grievance process.

Bias or Conflict of Interest

RCC's Title IX Coordinator, Investigator, Decision-Maker, or any person designated by RCC to facilitate an informal resolution process, will not have actual bias or conflict of interest in the investigatory, hearing, sanctioning, or appeal process or bias for or against Complainants or Respondents generally. Actual bias is an articulated prejudice in favor of or against one Party or position; it is not generalized concern about the personal or professional backgrounds, positions, beliefs, or interests of the Decision-Maker in the process. RCC will ensure that the Title IX Coordinator, Investigator, Decision-Maker, and facilitator receive training on:

- The definition of sexual harassment in this procedure;
- The scope of RCC's education program or activity;



- How to conduct an investigation;
- The grievance process including conducting hearings, appeals, and informal resolution processes; and
- How to serve impartially, including avoiding: prejudgment of the facts at issue; conflicts of interest; and bias.

Timeline for Completion

RCC will undertake its grievance process promptly and as swiftly as possible. RCC will complete the investigation and its determination regarding responsibility or the informal resolution process within 180 calendar days.

When appropriate, the Title IX Coordinator may determine that good cause exists to extend the **180-calendar** day period to conduct a fair and complete investigation, to accommodate an investigation by law enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for RCC breaks or vacations, or due to the complexity of the investigation. RCC will provide notice of this extension to the Complainant and Respondent in writing and include the reason for the delay and anticipated timing of completion.

A Party may request an extension from the Title IX Coordinator in writing by explaining the reason for the delay and the length of the extension requested. The Title IX Coordinator will notify the Parties and document the grant or denial of a request for extension or delay as part of the case recordkeeping.

Role of Process Advisor

The role of the Process Advisor is to provide support and assistance in understanding and navigating the investigation process.

The Process Advisor may not testify in or obstruct an interview or disrupt the process. The Title IX Coordinator has the right to determine what constitutes appropriate behavior of a Process Advisor and take reasonable steps to ensure compliance with this procedure.

A Party does not have a right to self-representation at the hearing; a Process Advisor must conduct any cross-examination. RCC must provide a Process Advisor of its choice, free of charge to any Party without a Process Advisor in order to conduct cross-examination. If a Process Advisor fails to appear at the hearing, RCC will provide a Process Advisor to appear on behalf of the non-appearing Process Advisor. To limit the number of individuals with confidential information about the issues, each Party may identify one Process Advisor.

Use of Privileged Information



RCC's formal complaint procedure does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege (e.g., attorney-client privilege, doctor-patient privilege, spousal privilege, etc.), unless the person holding the privilege provides voluntary, written consent to waive the privilege.

Investigations

The Title IX Coordinator is responsible to oversee investigations to ensure timely resolution and compliance with Title IX and this procedure.

Both Parties have the right to have a Process Advisor present at every meeting described in this section.

Trained Investigators

RCC will investigate Title IX formal complaints fairly and objectively. Individuals serving as Investigators under this procedure will have adequate training on what constitutes sexual harassment and how the RCCs grievance procedures operate. RCC will also ensure that Investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence and complies with this procedure.

Gathering Evidence

RCC, not the Parties, has the responsibility to gather information and interview witnesses.

Notice of Investigative Interview

RCC will provide written notice of the date, time, location, participants, and purpose of all investigative interviews to a Party whose participation is invited or expected, with sufficient time for the Party to prepare to participate.

Evidence Review

Both Parties have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which RCC] does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a Party or other source.

Prior to the investigator finalizing an investigative report, RCC will send to each Party and the Party's Process Advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The Parties will have at least ten calendar days to submit a written response. The investigator must consider this written response prior to completing the investigative report.

Investigative Report



The results of the investigation of a formal complaint will be set forth in a written report that will include at least all of the following information:

- A description of the circumstances giving rise to the formal complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony of each witness the investigator interviewed;
- An analysis of relevant evidence collected during the investigation, including a list of relevant documents;
- A table of contents if the report exceeds ten pages; and
- Any other information deemed appropriate by RCC.

The investigator will not make a determination regarding responsibility.

At least ten days prior to a hearing or other time of determination regarding responsibility, RCC will send the investigative report to each Party and their Process Advisors, if any, the investigative report in an electronic format or a hard copy, for review and written response. The Parties will have at least ten days to submit a written response.

Hearing

After completing an investigation and prior to completing a determination regarding responsibility, RCC will hold a live hearing to provide the Complainant and Respondent an opportunity to respond to the evidence gathered before a Decision-Maker. Neither Party may choose to waive the right to a live hearing, but the Parties can choose whether to participate in the hearing or answer some or all cross-examination questions.

Notice

RCC will provide all Parties and their Process Advisors written notice of the date, time, location, participants, and purpose of a hearing with sufficient time for the Party to prepare to participate.

Hearing Format

RCC may provide a live hearing with all Parties physically present in the same geographic location or, at RCC's discretion if either Party requests, RCC may provide any or all Parties, witnesses, and other participants the ability to appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other in real time.

RCC will make the information reviewed during the Evidence Review available at the hearing for reference and consultation. RCC will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present relevant evidence.

RCC will create an audio or audiovisual recording of any live hearing and make it available to the Parties for inspection and review.



Decision-Maker

The Decision-Maker will be free from conflict of interest or actual bias, including actual bias for or against Complainants or Respondents. A party may object to the Decision-Maker on the basis of a conflict of interest or actual bias. This objection must be made to the Title IX Coordinator in writing. This written objection must include the facts and circumstances that lead the party to believe the Decision-Maker has actual bias against the party or has a conflict of interest. This objection must be received by the Title IX Coordinator at least 5 business days prior to a scheduled hearing. Upon receipt of such an objection the Title IX Coordinator – in consultation with appropriate campus partners – will evaluate the objection and make a determination as to whether actual bias or a conflict of interest is present. This decision will be communicated to all parties in writing and is final. The Decision-Maker may ask the Parties and the witnesses questions during the hearing. The Decision-Maker must objectively evaluate all relevant evidence both inculpatory and exculpatory and must independently reach a determination regarding responsibility without giving deference to the investigative report. The Decision-Maker must receive training on issues of relevance, how to apply the rape-shield protections for Complainants, and any technology to be used at the hearing.

Presenting Witnesses

RCC will provide the Complainant and Respondent an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Witnesses, like Parties, are not required to participate in the live hearing process.

Only relevant evidence will be admissible during the hearing. Relevant evidence means evidence, including evidence relevant to the credibility of a Party or witness, having any tendency in reason to prove or disprove any disputed fact material to the allegations under investigation.

Cross-Examination

RCC will permit each Party's Process Advisor to ask the other Party and any witnesses all relevant questions and follow-up questions, including those questions challenging credibility. The Party's Process Advisor must conduct cross-examination directly, orally, and in real time. A Party may never personally conduct cross-examination.

Process Advisors may only ask relevant cross-examination and other questions of a Party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Decision-Maker need not provide a lengthy or complicated explanation in support of a relevance determination. If a Party or witness disagrees with a relevance determination, that individual has the choice of either (1) abiding by the Decision-Maker's determination and answering the question or (2) refusing to answer the question.

If a Party or witness does not submit to cross-examination at the live hearing, the Decision-Maker will not rely on any statement of that Party or witness in reaching a determination regarding responsibility. A Party or witness may also decline to answer a question, and the Decision-Maker cannot rely on any statement on which that Party or witness has declined to answer cross-examination questions. A Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Determinations of Responsibility

When the Decision-Maker makes a determination of responsibility or non-responsibility, the Decision-Maker will issue a written determination regarding responsibility, no later than 20 business days after the date that the hearing ends.

When making a determination regarding responsibility, a Decision-Maker will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence. A Decision-Maker may not make credibility determinations based on an individual's status as a Complainant, Respondent, or witness. In evaluating the evidence, the Decision-Maker will use the preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, RCC] will decide whether it is more likely than not that sexual harassment occurred.

The written determination will include:

- Identification of the allegations potentially constituting Title IX sexual harassment as defined in these procedures;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including who conducted the investigation and gave notifications to the Parties. The determination will also state when, where, and the date the Investigator interviewed the Parties and witnesses, conducted site visits, the methods used to gather other evidence. The procedural section should also discuss the dates and how the Parties were provided the opportunity to review and inspect evidence and the date of any hearings held and who attended the hearing;
- Findings of fact supporting the determination. In making these findings, the Decision-Maker will focus on analyzing the findings of fact that support the determination of responsibility or non-responsibility;
- Conclusions regarding the application of RCC's code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- A statement of, and rationale for, any disciplinary sanctions RCC imposes on the Respondent;
- A statement of whether RCC will provide the Complainant with remedies designed to restore or preserve equal access to RCC's education program or activity;

- RCC need not disclose to the Respondent remedies that do not affect them as part of the written determination. RCC can inform the Respondent that it will provide remedies to the Complainant. However, RCC will inform the Complainant of the sanctions against the Respondent;
- RCC's procedures and permissible bases for the Complainant and Respondent to appeal.

RCC will provide the written determination to the Parties simultaneously. The determination regarding responsibility becomes final either on the date that RCC provides the Parties with the written determination of the result of the appeal, if the Parties file an appeal, or if the Parties do not file an appeal, the date on which an appeal would no longer be timely.

Disciplinary Sanctions and Remedies

RCC must have completed the grievance procedures (investigation, hearing, and any appeal, if applicable) before the imposing disciplinary sanctions or any other actions that are not supportive measures against a Respondent. If the Decision-Maker determines the Respondent was responsible for conduct that constitutes sexual harassment, RCC will take disciplinary action against the Respondent and any other remedial action it determines to be appropriate. The action will be prompt, effective, and commensurate with the severity of the offense.

Remedies for the Complainant might include, but are not limited to:

- Providing an escort to ensure that the Complainant can move safely between classes and activities;
- Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
- Providing counseling services or a referral to counseling services;
- A referral to medical services;
- Providing academic support services, such as tutoring;
- Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.

Possible disciplinary sanctions for student Respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Possible disciplinary sanctions for employee Respondents include written or verbal reprimand, required training or counseling, reduction in pay, demotion, suspension, or discharge.



Appeal of Dismissal of a Formal Complaint or of the Determination of Responsibility

A Complainant or Respondent may appeal RCC's determination regarding responsibility or the dismissal of a formal complaint or any allegations. A Complainant or Respondent must submit a written appeal within 10 business days from the date of the notice of determination regarding responsibility or from the date of RCC's notice of dismissal of a formal complaint or any allegations.

Grounds for Appeal

The Chief Human Resources Officer ("CHRO") or Vice President of Student Services/Chief Student Services Officer ("VPSS"/"CSSO") or designee - as appropriate - will serve as the Decision-Maker on Appeal. In filing an appeal of RCC's determination regarding responsibility or RCC's dismissal of a formal complaint, the Party must state the grounds for appeal and a statement of facts supporting those grounds in writing to the Appeal Decision-Maker identified in the Notice of Outcome. The grounds for appeal are as follows:

- A procedural irregularity affected the outcome;
- New evidence was not reasonably available at the time of RCC's determination regarding responsibility or dismissal was made, and this new evidence could affect the outcome; or
- RCC's Title IX Coordinator, investigator, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome.

Appeal Procedure

If the Complainant or Respondent submits an appeal to in writing to the Appeal Decision-Maker identified in the Notice of Outcome, the Appeal Decision-Maker] will:

- Notify the other Party in writing within five business days of receiving a Party's appeal;
- Allow the non-appealing Parties at least five business days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome;

The Appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within **45** business days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response. RCC will provide the written decision simultaneously to both Parties.

The Appeal Decision-Maker may extend or otherwise modify the deadlines provided above. Either Party may seek an extension by submitting a written request to the Appeal Decision-Maker explaining the need for the extension and the proposed length of the extension. The Appeal Decision-Maker will respond to the request within 2 business days in writing and will inform the Parties simultaneously whether the extension is granted.



Informal Resolution

If RCC determines that a formal complaint is appropriate for informal resolution, it may provide the Parties with the opportunity to participate in an informal resolution process, including mediation, at any time prior to reaching a determination regarding responsibility.

RCC will provide the Complainant and Respondent written disclosure of the allegations, the requirements of the informal resolution process, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

RCC must obtain the Parties' voluntary, written consent to the informal resolution process. If the Parties reach an agreement, RCC does not have to complete a full investigation and adjudication of a report of sexual harassment. At any time prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

The informal resolution process is not available to resolve allegations that an employee sexually harassed a student.

Retaliation Prohibited

RCC prohibits any intimidation, threats, coercion, or discrimination against any individual who made a report or complaint of sexual harassment, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation, proceeding, or hearing. Individuals who experience retaliation may file a complaint using the formal complaint process described above.

Dissemination of Policy and Procedures

RCC will provide its policy and procedures related to Title IX on its website and in each handbook or catalog provided to applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining with RCC.

When hired, employees are required to sign acknowledging that they have received the policy and procedures. RCC will place the signed acknowledgment of receipt in each employee's personnel file.

Training

RCC will provide training to Title IX Coordinators, Investigators, Decision-Makers, and any individual who facilitates an informal resolution process, on the definition of sexual harassment, the scope of RCC's education programs or activities, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Any materials used to train RCC's Title



IX Coordinator, Investigators, Decision-Makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

File Retention

RCC will retain on file - for a period of at least seven years after closing the case - copies of:

- The original report or complaint;
- Any actions taken in response to the complaint, including supportive measures;
- The investigative report including all evidence gathered and any responses from the Parties;
- RCC's determination regarding responsibility;
- Audio or audiovisual recording from a hearing;
- Records of any disciplinary sanctions imposed on the Respondent;
- Records of any remedies provided to the Complainant;
- Any appeal and the result;
- Any informal resolution and the result; and
- All materials used to train Title IX Coordinators, investigators, Decision-Makers, and any person who facilitates an informal resolution process. RCC will make these training materials publicly available on its website.

RCC will make these documents available to the U.S. Department of Education Office for Civil Rights upon request.

Rescinds Procedure Number: None

Approved: September 19, 2020

Names, titles and departments updated March 6, 2022