



AP 3434 Responding to Sexual Harassment Under Title IX

References:

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

Introduction

Rogue Community College (“RCC”) encourages members of the RCC community to report sexual harassment. This procedure and the related policy protect students, employees, applicants for employment, and applicants for admission. 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 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 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 Building

Phone: 541-956-7124

Email: title9@roquecc.edu

The Title IX Coordinator is required to respond to reports of sexual harassment. 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.



Jurisdictional Requirements – Application of Procedures

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

- The conduct took place in the United States;
- The conduct meets the definition of Title IX sexual harassment; and
- The conduct took place in an RCC “education program or activity.” This includes locations, events, or circumstances over which the College 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 the College own or control;

Reporting Options

Any individual may report sexual harassment to the Title IX Coordinator.

Individuals have the opportunity to decide whether they want to pursue a Title IX formal complaint. Reporting sexual harassment to the Title IX Coordinator does not automatically initiate an investigation under these procedures. A report allows the 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 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.)

Obligations of Employees

RCC employees who have authority to institute corrective measures on behalf of the College, and are not confidential resources are required to report allegations of sexual harassment to the Title IX Coordinator promptly when they have information about conduct that may reasonably constitute sexual harassment.

All non-confidential RCC 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.



Confidential Resource Options

Students, faculty, and staff may wish to seek confidential assistance in dealing with an incident of sexual harassment. RCC has identified specific Confidential Resources who will maintain confidentiality. For students, the licensed counselors at RCC's Counseling Department serve as Confidential Resources. Faculty and staff can access Confidential Resources via the RCC Employee Assistance Program, for which all employees are eligible (with the exception of student employees, who should contact RCC Counseling).

In most cases, Confidential Resources at RCC will not share the substance of any such communications or that such communications occurred, without consent. Individuals who wish to talk confidentially about issues related to sexual harassment, with the understanding that RCC will not take any action based on such confidential communications, are encouraged to contact one of these Confidential Resources.

Confidential Resources may, however, have an obligation to disclose otherwise-privileged information where they perceive an immediate or serious threat to a person or property. This is a limited exception to the privileged nature of communications with Confidential Resources. Reports or records maintained by RCC, and other confidential, non-privileged records may, however, be subject to a subpoena if civil or criminal charges are filed in court.

In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Confidential Resources will not report Clery crimes they learn about through confidential communications for purposes of RCC's compilation of campus crime statistics. In addition, when appropriate and legally permissible, RCC shall maintain records of reports of dating violence, domestic violence, stalking, and sexual assault. Records for the purpose of legally mandated disclosures, e.g., under the Clery Act, will exclude any personally identifiable information of complainants.

Definitions

Business Day: Business day means a day the RCC campuses and offices are open. Business days do not include Saturdays, Sundays, holidays, scheduled closure days, or days on which RCC administrative offices are closed, including unexpected closures due to inclement weather.

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

Consent: Consent means an affirmative, conscious, and voluntary agreement to engage in sexual activity. It is 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: The person or persons who will oversee the live hearing and make a determination of responsibility. RCC may have one Decision-Maker determine whether the Respondent is responsible for sexual harassment in violation of the College's Title IX policies and procedures and another Decision-Maker determine the appropriate level of disciplinary sanctions 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 Dean of Student Success will serve as the Appeal Decision-Maker as appropriate.

Disciplinary sanctions: Consequences imposed on a respondent following a determination under the RCC's Title IX policies and procedures or its regulations that the Respondent violated the RCC's prohibition on sexual harassment.

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.

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 at the time of the hearing, RCC must provide the Party a Process Advisor



of the RCC's choice, free of charge. 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.

Parties have the right to consult with an attorney, at their own expense, at any stage of the grievance process if they wish to do so. An attorney may serve as a Process Advisor.

Relevant: Related to the allegations of sexual harassment under investigation as part of these grievance procedures. 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. Questions are relevant when the question seeks evidence that may aid in showing whether the alleged sexual harassment occurred.

Remedies: Measures provided, as appropriate, to a Complainant or any other person RCC identifies as having had their equal access to the RCC's education program or activity limited or denied by sexual harassment. These measures are provided to restore or preserve that person's access to the RCC's education program or activity after the College determines that sexual harassment occurred.

Respondent: A Respondent is an individual reported to be the perpetrator of conduct that could constitute sexual harassment.

Retaliation: Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by this procedure, or because the individual has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this procedure.

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

- **Quid pro quo harassment.** An RCC employee conditions the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
- **Hostile environment 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 the RCC's education program or activity
- **Sexual assault:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent, or unlawful sexual intercourse. Sexual assault includes the following:
 - **Rape.** Sexual intercourse between two people, and may include oral or anal intercourse, without the consent of the victim.

- **Statutory Rape.** Sexual intercourse with a person who is under the statutory age of consent.
- **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.
- **Sexual Contact/Fondling.** The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation or the forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- **Incest.** Sexual intercourse between persons who are related to each other within the degrees prohibited by law.
- **Dating violence.** Violence against a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where 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.

Supportive measures: Supportive measures are non-disciplinary, non-punitive individualized services offered free of charge to the Complainant and the Respondent regardless of whether a formal complaint has been filed.

Response to Reports of Sexual Harassment

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 because a delay in reporting may affect the ability to collect relevant evidence and may affect remedies the College can offer.



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 meeting. The Title IX Coordinator will discuss supportive measures with the Parties.

Implementation of Supportive Measures

RCC will offer and coordinate supportive measures as appropriate for the Complainant and Respondent to restore or preserve that person's access to RCC's education program or activity without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the College's educational environment, or deter sexual harassment.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. The Title IX Coordinator should record and retain records regarding requests and provision of supportive measures in accordance with the requirements set out in this procedure. A Party may request supportive measures from the Title IX Coordinator.

Supportive measures may include, but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more Parties; leaves of absence; changes in class, work, or extracurricular or any other activity, and other similar measures.

RCC shall not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one Party of supportive measures provided to another Party, unless necessary to provide the supportive measure or restore or preserve a Party's access to the education program or activity, or as required by law.

Emergency Removal

RCC may remove a non-employee Respondent from the 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 the 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 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, and State law in placing an employee on administrative leave.

Response to Formal Complaints of Sexual Harassment

In addition to the response discussed in the Response to Reports of Sexual Harassment section above, RCC's response to a formal complaint will include the steps described below.

Consolidation of Complaints

RCC may, but is not required to, consolidate Complaints of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sexual harassment arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Dismissal of a 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 the 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 the RCC; or
- If there are specific circumstances that prevent the 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. The College will also notify the Parties of their right to appeal. See the section on appeals for more information.

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

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 discipline 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 the conclusion of the grievance process.

Role of Process Advisor

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

The Process Advisor may not 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.

Privacy

RCC will take reasonable steps to protect the privacy of the Parties and witnesses during its grievance procedures. These steps will not restrict the ability of the Parties to discuss the allegations under investigation or to gather and present relevant evidence.

Prohibition Against Bias or Conflict of Interest

The Title IX Coordinator, investigator, Decision-Maker, or any person designated by RCC to facilitate an informal resolution process, will not have potential or 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 and Extensions

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 120 calendar days.

When appropriate, the Title IX Coordinator may determine that good cause exists to extend the 120-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.



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 the 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, who may be, but is not required to be, an attorney;
- 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 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;
- 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; and

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.

Informal Resolution

At its discretion, RCC may offer the Parties informal resolution, including mediation, in lieu of resolving a complaint through the Title IX grievance procedures. RCC does not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law.

RCC shall not require the Parties to participate in an informal resolution process. RCC does not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right. RCC must obtain the Parties' voluntary, written consent to the informal resolution process.

RCC will inform the Parties in writing of any informal resolution process it offers and determines is appropriate, if any. Before the initiation of an informal resolution process, RCC will explain in writing to the Parties:

- The allegations;
- The requirements of the informal resolution process;



- That any Party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the Parties agree to a resolution at the end of the informal resolution process, the Parties cannot initiate or resume grievance procedures arising from the same allegations; and
- What information RCC will maintain and whether and how the College could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

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 or proceeding described in this section.

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, how the grievance procedures operate, and trauma-informed investigation techniques. 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.

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

RCC will provide an equal opportunity for the Parties to present witnesses and other inculpatory and exculpatory evidence that are relevant and otherwise permissible. RCC will objectively evaluate all evidence that is relevant and otherwise permissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

Use of Privileged Information

The grievance 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.

Evidence of Past Sexual History

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. (Also see applicable state law ORS 40.210, Rule 412.)

Evidence Review

Prior to the investigator preparing an investigative report, RCC will provide all Parties an equal opportunity to engage in evidence review. 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 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.

RCC will make available to each Party and the Party's Process Advisor, if any, the evidence subject to evidence review in an electronic format or a hardcopy. RCC will allow Parties at least 10 business days to submit a written response. The investigator must consider any 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 provided by each witness with information relevant to the allegations;
- A summary of all relevant and permissible evidence gathered through the investigation, including a list of relevant documents;
- A table of contents if the report exceeds 10 pages; and
- Any other information deemed appropriate by RCC.

The investigator will not make a determination regarding responsibility.

The investigator may redact information not directly related to the allegations or privileged information. However, the investigator will keep a log of information they do not produce



to the Parties. The investigator will provide this log only to the Title IX Coordinator. The Title IX Coordinator will not disclose the log to the Parties but will maintain the log in the Title IX Coordinator's file, in the event it later becomes relevant.

RCC will send the investigative report to each Party and their Process Advisors, if any, at least 10 business days prior to the live hearing. RCC will provide the final investigative report in an electronic format or a hard copy. Parties may review the investigation report and provide a written response. RCC will allow Parties at least 10 business days to submit a written response.

Live Hearing

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

Notice

RCC will provide all Parties written notice of the date, time, location, participants, and purpose of the 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 the College's discretion and if a Party or a witness requests, RCC may provide 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, or transcript, of any live hearing and make it available to the Parties for inspection and review.

The Decision-Maker shall provide an explanation of the meaning of the preponderance of the evidence standard and affirm that it shall apply to adjudications under this procedure. The preponderance of the evidence standard is met if RCC determines that it is more likely than not that the alleged misconduct occurred, based on the facts available at the time of the decision.



Decision-Maker

The Decision-Maker will be free from conflict of interest or bias, including bias for or against Complainants or Respondents.

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 (see ORS 40.210, Rule 412), 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.

Generally, the Parties may not introduce evidence, including witness testimony, at the hearing that the Party did not identify during the investigation and that was available at the time of the investigation. However, the Decision-Maker has discretion to accept for good cause, or exclude, such new evidence offered at the hearing.

Cross-Examination

RCC shall permit each Party's Process Advisor to ask the other Party and any witness relevant questions, including 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. The other Party shall have an opportunity to object to a question posed. RCC may limit such objections to written form, and neither the Decision-Maker nor RCC are obligated to respond, other than to include any objection in the record. The Decision-Maker shall have the authority and obligation to discard or rephrase any question that the Decision-Maker deems to be irrelevant. In making these determinations, the Decision-Maker is not bound by, but may take guidance from, the formal rules of evidence.

Before a Complainant, Respondent, or witness answers a 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 may admit any statement of that Party or witness in reaching a determination regarding responsibility. The Decision-Maker will give the statements whatever weight the Decision-Maker determines appropriate, bearing in mind that the statements have not been tested by cross-examination. In doing so, the Decision-Maker should consider, and if possible determine, whether the witness or Party made the statement and what the statement proves.

The Decision-Maker cannot draw an inference about the determination of responsibility based solely on a Party's or witness's absence from the live hearing or refusal to submit to cross-examination or to answer any question.

The Decision-Maker may also ask any Party or witness questions. If a Party or witness refuses to respond to a Decision-Maker's questions, the Decision-Maker is not precluded from relying on that Party or witness' statements.

Determination of Responsibility

The Decision-Maker will issue a written determination of responsibility no later than 20 business days after the conclusion of the live hearing.

The 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, the Decision-Maker 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 the 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. RCC will inform the Complainant of the sanctions against 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. The College need not disclose to the Respondent remedies that do not affect them as part of the written determination;
- 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 any appeal if a Party files an appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

Appeal of Dismissal of a Formal Complaint or of Determinations of Responsibility

A Complainant or Respondent may appeal RCC's dismissal of a formal complaint or any allegations or the determination regarding responsibility.

Grounds for Appeal

A Party may appeal based on the following grounds:

- A procedural irregularity that affected the outcome;
- New evidence was not reasonably available at the time RCC's determination regarding responsibility or dismissal was made, and this new evidence could affect the outcome; or
- The 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 would change the outcome.



Appeal Procedure

- A Party may submit a written appeal no later than 10 business days from the date of RCC's notice of dismissal of a formal complaint or any allegations, or from the date of the notice of determination regarding responsibility. The Party appealing must state the grounds for appeal and a statement of facts supporting those grounds.
- The Chief Human Resources Officer ("CHRO") or the Dean of Student Success or designee, as appropriate, will serve as the Decision-Maker on Appeal.
- If RCC receives an appeal, the Appeal Decision-Maker will notify the other Party in writing within 5 business days of receiving a Party's appeal.
- The non-appealing Party may submit a written statement in support of, or challenging, the decision to dismiss the formal complaint or allegations or the decision in the determination regarding responsibility. RCC will allow the non-appealing Party at least 5 business days from the date of receipt of the appeal to submit the written statement.
- 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 Appeal Decision-Maker 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 Decision-Maker will respond to the request in writing within 2 business days and will inform the Parties simultaneously whether the extension is granted.

Disciplinary Sanctions and Remedies

Following a determination that sexual harassment occurred, RCC may impose disciplinary sanctions on the Respondent. The action will be prompt, effective, and commensurate with the severity of the offense.

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.

RCC may also issue a no-contact directive against the Respondent.



RCC may also provide remedies to the Complainant, which may 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;
- Providing 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.

Any additional procedures or bases for appeal RCC offers will be equally available to all Parties.

Informal Resolution

In lieu of resolving a Complaint through RCC's Title IX grievance procedures, the Parties may instead elect to participate in an informal resolution process. RCC will not offer informal resolution to resolve a Complaint when such a process would conflict with Federal, State, or local law. RCC will inform the Parties in writing of any informal resolution process it offers and determines is appropriate, if any. Before the initiation of an informal resolution process, RCC will explain in writing to the parties:

- The allegations;
- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the Parties agree to a resolution at the end of the informal resolution process, the Parties cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information RCC will maintain and whether and how RCC could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

Supportive Measures

RCC will offer and coordinate supportive measures as appropriate for the Complainant and Respondent to restore or preserve that person's access to the College's education program or activity or provide support during the RCC's Title IX grievance procedures or during the informal resolution process. For complaints of sexual harassment, these supportive measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more Parties; leaves of absence; changes in class, work, or extracurricular or any other activity, regardless of whether there is a comparable alternative; and training and education programs related to sexual harassment.

Disciplinary Sanctions and Remedies:

Following a determination that sexual harassment occurred, RCC may impose disciplinary sanctions on a student respondent including written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Following a determination that sexual harassment occurred, RCC may impose disciplinary sanctions on an employee respondent including written or verbal reprimand, required training or counseling, reduction in pay, demotion, suspension, or discharge.

RCC may also provide remedies, which may 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;
- Providing 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.

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 or transcript 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 documents available to the U.S. Department of Education Office for Civil Rights upon request.

Rescinds Procedure Number: None

Approved: September 19, 2020; April 1, 2025 - Returned to pre-2024 Title IX Rule; November 18, 2025; February 10, 2026