

## **Policy C. 27. Policy on Title IX Sexual Harassment for Faculty, Staff, and Students**

### **I. General Policy Statement**

Rochester Institute of Technology is a diverse community committed to creating and maintaining a safe and non-discriminatory learning, living, and working environment free from sexual harassment and sex-based violence.

Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with equal access to the university's educational programs and opportunities.

On May 19, 2020, the U.S. Department of Education issued a final rule under Title IX of the Education Amendments of 1972 that:

- Defines the meaning of "sexual harassment" (including forms of sex-based violence) for purposes of Title IX;
- Addresses how the university must respond to reports of misconduct falling within that definition of sexual harassment; and
- Mandates a grievance process that the university must follow to comply with the law in cases that meet certain criteria.

### **II. Scope, Applicability and Interpretation**

This Policy applies to all RIT administrators, faculty, staff, students, and third parties within the university's control. This Policy applies equitably to all individuals regardless of race, religion, age, citizenship, color, creed, culture (including Deaf culture), actual or perceived disabilities, gender, marital status, ethnic or national origin, political affiliation or preference, military or veteran status, sexual orientation, gender identity, gender expression, or genetic predisposition.

This Policy will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator:

- The conduct is alleged to have occurred on or after August 14, 2020;
- The conduct is alleged to have occurred in the United States;
- The conduct is alleged to have occurred in RIT's Education Program or Activity; and
- The alleged conduct, if true, would constitute Sexual Harassment as defined in this Policy.

Unless otherwise indicated, all references throughout this Policy to individuals or titles (*e.g.*, Title IX Coordinator, or Director of Center for Student Conduct and Conflict Resolution) shall include that individual's designee.

Unless otherwise stated, all references to "days" in the Policy shall mean calendar days. To the extent a deadline falls on a weekend or a university holiday, the next business day shall be the applicable deadline.

### **III. Other Relevant Policies**

This Policy is limited in scope and applicability by law. However, unwelcome conduct that is based on sex, gender, gender identity, or sexual orientation, that is not explicitly prohibited under Title IX, is prohibited by other RIT policies and will be adjudicated thereunder. These policies include, but are not limited to, [C06.0 Policy Prohibiting Discrimination, Harassment and Retaliation](#), which governs harassment and discrimination related to employees; [D19.0 Student Gender-Based and Sexual Misconduct Policy](#), which governs non-Title IX Sexual Misconduct and related gender-based harassment and discrimination, and [D18.0 Student Conduct Process](#), which details the student code of conduct. Other relevant policies may also include [C23.0 Policy on Consensual Romantic or Sexual Relationships](#), which governs consensual romantic or sexual relationships between members of the university community, and [C26.0 Protection of Minors on Campus Policy](#), which governs the activities and programs related to minors on campus.

### **IV. Academic Freedom and Freedom of Speech and Expression**

This Policy is not intended to, and will not be used to, infringe on academic freedom or to censor or punish students, faculty, or staff who exercise their rights under [C11.0 Policy on Freedom of Speech and Expression](#).

### **V. Disability Accommodations**

This Policy does not alter any university obligations under federal disability laws including the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator, the Director of Center for Student Conduct and Conflict Resolution (for student requests), or the Director of Strategic Partnerships, Human Resources (for employee requests) at any point before or during the process under this Policy. Absent a request for a specific disability accommodation by a party, no such accommodation will be given, even where a party may be receiving accommodations in other university Education Programs and Activities.

### **VI. Effective Date**

The effective date of this Policy is August 14, 2020. This Policy applies to all Title IX Sexual

Harassment reported to have occurred on or after August 14, 2020. If the Title IX Sexual Harassment reportedly occurred prior to August 14, 2020, then the report will be evaluated under other applicable university policies, including [D19.0 Student Gender-Based and Sexual Misconduct Policy](#) (students) or [C06.0 Policy Prohibiting Discrimination, Harassment and Retaliation](#) (employees).

## **VII. Definitions**

1. “Advisor of Choice” means an individual who is selected by a party (*i.e.*, Complainant or Respondent) and who helps the party prepare for meetings and hearings, accompanies the party in any proceedings, and advises the participant during the appeals process. The Advisor of Choice can, but is not required to, be an attorney, and may be any person who is not a party, witness, or otherwise involved in the investigation. RIT will provide an Advisor of Choice upon request by a Complainant or Respondent.

2. “Affirmative Consent” means the ability to engage in activity knowingly and voluntarily. Consent to sexual activity must be affirmative, and, whenever the word “Consent” is used in this Policy, it should be understood to mean Affirmative Consent as defined here. Affirmative Consent to sexual activity must be a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words (verbal or signed) or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate Consent.

The definition of Consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression. Consent must be mutual and exist from the beginning to end of each instance of sexual activity and for each form of sexual contact. Consent cannot be gained by force, by ignoring, or acting in spite of the objections of another. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. There is no duty to fight off a sexual aggressor.

Consent may be initially given but can be withdrawn at any time. When Consent is withdrawn or can no longer be given, all sexual activity must stop. Consent to engage in sexual activity is required regardless of whether the person initiating the sexual act is under the influence of drugs and/or alcohol. A person shall not knowingly take advantage of another person who has an intellectual or physical disability, who is incapacitated by prescribed medication, alcohol, or other chemical drugs, or who is not conscious or awake, and thus is not able to give Consent as defined above. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. Consent is active, not passive.

Certain states have designated a minimum age under which a person cannot give Consent. In the state of New York, the age of Consent is 17.

3. “Complainant” means an individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment as defined in this Policy.

4. “Confidential” means information shared with a Confidential Resource or external community professionals that cannot be revealed to any other individual without express permission of the disclosing individual.

5. “Confidential Resources” means RIT employees or offices designated as a resource with whom students or employees may speak Confidentially concerning sexual harassment, sexual assault or other forms of unwanted sexual contact, dating violence, or stalking, or who receives information regarding such an incident under circumstances that render the employee’s communications confidential or privileged under law. A full list of the Confidential Resources can be found in Appendix A, attached.

6. “Dating Violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, including sexual or physical abuse or threats of such abuse. The existence of such a relationship shall be determined based on the reported statements and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

7. “Domestic Violence” means 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 the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

8. “Education Program or Activity” means any program or activity that occurs:

- on-campus; or
- At any off-campus location in the United States over which RIT has substantial control, including buildings or property owned or controlled by any recognized student organization; or
- Within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of RIT’s programs and activities over which RIT has substantial control.

9. “Employee(s)” means all regular and adjunct faculty and staff, and administrators as defined in RIT’s policy on [Employee Work Classification](#) (E1.0).

10. “Formal Complaint” means a written document (including electronic submission) filed and signed by either by a Complainant participating in or attempting to participate in an Education Program or Activity, or by the Title IX Coordinator alleging Title IX Sexual Harassment

against a Respondent about conduct within RIT's Education Program or Activity, which requests that RIT investigate the allegation of Title IX Sexual Harassment consistent with this Policy.

11. "Incapacitation" means a person who is not legally competent or is unable to give Affirmative Consent to sexual activity. RIT will consider a variety of relevant factors when determining whether someone is incapacitated as result of alcohol or drugs. Those factors include, but are not limited to, the ability to control one's physical movements such as stumbling or falling, the lack of awareness of the current circumstances or surroundings, slurred or incomprehensible speech, the ability to communicate, combativeness or other emotional volatility, vomiting or incontinence, whether the person is conscious or otherwise unable to resist sexual activity, whether the person is unaware that sexual activity is occurring, or whether the person has the legal capacity to Consent. The determination of incapacitation is based on objective and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person.

12. "Preponderance of Evidence" is a standard of evidence that means it must be more likely than not that the reported conduct occurred.

13. "Privacy" means that information related to an incident or report will be shared only with a limited circle of individuals who "need to know" in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, individuals with whom a report is shared will be discreet and respect the privacy of all individuals involved in the process.

14. "Responsible Administrators" means RIT's Title IX Coordinator, Deputy Coordinators, and the Title IX Investigator(s). Responsible Administrators are not Confidential Resources.

15. "Responsible Employee" means any individual who is employed by RIT and has a duty to report information they receive, directly or indirectly, regarding harassment, sexual harassment, sexual assault, dating violence, or stalking by or against a university student or employee, unless they have been designated a Confidential Resource.

16. "Relevancy" means a threshold standard used under this Policy to determine which evidence and questions make a fact more or less likely to be true, and the fact is of consequence in determining the action. Only relevant evidence will be used to adjudicate allegation of Title IX Sexual Harassment and only relevant questions will be permitted on cross-examination. Relevant evidence and relevant questions do not include the following types of evidence and questions:

- Evidence and questions about the Complainant's sexual predisposition or prior sexual behavior unless they are offered to prove that someone other than Respondent is

responsible for the conduct alleged by Complainant, or they concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent.

- Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege (*i.e.*, attorney-client, doctor-patient, clergy-penitent).
- Any party's medical, psychological, and similar records unless the party has given voluntary, written consent.

17. "Reporter" means any person who reports incidents of sexual harassment, sexual assault or other forms of unwanted sexual contact, dating violence, and stalking to any Responsible Employee. A Reporter who is reporting activity that happened to them personally is considered a Complainant.

18. "Respondent" means a person who has reportedly engaged in conduct that could constitute Title IX Sexual Harassment or a violation of this Policy. RIT begins any investigation with the presumption that the Respondent is not responsible for the alleged conduct until such time that a determination regarding responsibility is made in accordance with this Policy.

19. "RIT Title IX Advocate" means an RIT employee that is trained by RIT to act as an Advisor of Choice and provide assistance to a Complainant or Respondent throughout the Title IX Grievance Process. RIT Title IX Advocates are available at any time prior to and during the live hearing, including any pre-hearing meetings or interviews, up to and including appeals, where applicable.

20. "RIT Student" means undergraduate, graduate, non-degree seeking, students in not-for-credit programs and all persons taking courses or training at RIT as well as RIT Students on co-op and students not officially enrolled during a particular term but who have a continuing relationship with the university.

21. "Sexual Assault" is defined by law as an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the Federal Bureau of Investigation's Uniform Crime Reporting program. This term includes the following:

- 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.
- 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 incapacity.
- Incest* - Sexual intercourse between persons who are related to each other within the

degrees wherein marriage is prohibited by law.

- *Statutory Rape* - Sexual intercourse with a person who is under the statutory age of Consent (which in the State of New York is at least seventeen (17) years old).

22. “Title IX Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:

- An employee of RIT conditioning the provision of an aid, benefit, or service of RIT on an individual’s participation in unwelcome sexual conduct (*i.e., quid pro quo*); or
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to RIT’s education program or activity; or
- Sexual Assault, Dating Violence, Domestic Violence, or Stalking.

23. “Stalking” means engaging in a course of conduct directed at a specific person and on the basis of sex that would cause a reasonable person to fear for the person’s safety or the safety of others, or to suffer substantial emotional distress. “Course of conduct” means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

24. “Supportive Measures” means non-disciplinary, non-punitive, individualized services offered as appropriate and as reasonably available, and without fee or charge to Complainant or Respondent. Supportive Measures are available before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. See Section VIII.D. below for more details on the type of Supportive Measures that are available.

25. “Title IX Coordinator” means the person who has been designated at RIT to coordinate efforts to comply with and implement this Policy. The Title IX Coordinator is available to discuss options, provide support, explain university policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators. Neither the Title IX Coordinator nor the Deputy Title IX Coordinators are Confidential Resources. Information provided to the Title IX Coordinator and the Deputy Title IX Coordinators will be shared only as necessary to investigate or otherwise resolve a report of Title IX Sexual Harassment.

### **VIII. Care, Support, and Report Options**

Complainants have a wide range of options for care, support, and reporting in response to an incident of Sexual Harassment. For comprehensive information about those options, students

and employees should refer to *Appendix A* or the [Title IX website](#). Third parties should contact the university's Title IX Coordinator.

#### **A. Title IX Coordinator, Deputy Title IX Coordinators, and Responsible Administrators**

The Title IX Coordinator and Deputy Title IX Coordinators have been trained to receive and respond to allegations of Title IX Sexual Harassment under this Policy. The Title IX Coordinator can be reached as follows:

Stacy DeRooy  
Director of Title IX and Clery Compliance  
(Title IX Coordinator)  
Office of Compliance and Ethics  
Rochester, NY 14623  
(585) 475-7158  
[Stacy.DeRooy@rit.edu](mailto:Stacy.DeRooy@rit.edu)

The current list of Deputy Title IX Coordinators and the remaining Responsible Administrators can be found on the [Title IX website](#).

Any individual may contact a Responsible Administrator to obtain information about this Policy and Supportive Measures. Individuals are not required to disclose any detail about an incident in order to obtain general information about this Policy, RIT's procedures, or counseling and other supportive resources available. Inquiries or complaints concerning Title IX also may be referred to the United States Department of Education, Office for Civil Rights, 400 Maryland Avenue, SW, Washington, DC 20202-1100, (800) 421-3481.

#### **B. How to Obtain Information or File a Report of Title IX Sexual Harassment**

Individuals may report Title IX Sexual Harassment under this Policy in one of the following ways:

- Filling out a Sexual Harassment and Discrimination [Form](#)
- Contacting the Title IX Coordinator, and Deputy Title IX Coordinator, or other Responsible Administrator in person, by mail, or by electronic mail
- Submitting a report to the anonymous [Ethics and Compliance Hotline](#)

Responsible Employees may also use these reporting mechanisms to satisfy their duty to report. Any individual may file a report, but Formal Complaints under this Policy (see below) may only be filed by Complainant and, in limited circumstances, the Title IX Coordinator.

#### **C. Law Enforcement and Emergency Services**

Any individual may choose whether to report a criminal allegation to law enforcement. Upon request, a member of RIT's Public Safety, Campus Advocacy Response and Support (CARES) Team, and/or Monroe County's RESTORE will accompany the Complainant to report the

incident to law enforcement. If the Complainant makes a report to the police agency having jurisdiction over the alleged conduct, that police agency will conduct a law enforcement investigation that is distinct from the investigation that would result from the filing of a Formal Complaint with the Title IX Coordinator. RIT's Public Safety can assist in providing the Complainant an explanation of the options available regarding law enforcement and ascertaining the Complainant's wishes on how to proceed.

An individual who experiences any form of Sexual Assault, or Domestic or Dating Violence, or any form of sexual violence is encouraged to seek immediate medical care for any injuries. Individuals are also encouraged to consider a forensic exam. Preserving DNA evidence can be key to identifying the perpetrator in any case involving sexual violence. Victims can undergo a forensic exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault or domestic violence may request a forensic exam be performed by a Sexual Assault Nurse Examiner (SANE) within ninety six (96) hours of the incident. With the examinee's consent, the physical evidence collected during this forensic exam can be used in a criminal investigation. However, a person may undergo a forensic exam even without contacting, or intending to contact the police. To request a forensic exam, you may either go to a hospital that provides forensic exam services, or contact RIT's Public Safety for assistance.

Nothing in this Policy is contingent upon seeking medical services or reporting to law enforcement.

#### **D. Supportive Measures**

Supportive Measures are non-punitive, non-disciplinary measures designed to restore or preserve equal access to RIT's Education Program or Activity without unreasonably burdening either party. The Supportive Measures are designed to protect the safety of all parties or RIT's educational environment and to deter Title IX Sexual Harassment. Regardless of the stage of the process under this Policy, the university may take Supportive Measures when appropriate, to protect the parties involved and the university community. Supportive Measures may be requested by either party and will be individualized on a case-by-case basis, considering the rights and obligations of all parties.

Supportive Measures may include, but are not limited to:

- counseling;
- extensions of deadlines or other course-related adjustments;
- modifications of work or class schedules;

- campus escort services;
- mutually-agreed upon restrictions on contact between the parties;
- voluntary changes in work or housing locations;
- leaves of absence;
- increased security and monitoring of certain areas of the campus (or other similar measures).

To request or discuss Supportive Measures, individuals should contact the Title IX Coordinator.

### **E. Employee Duty to Report**

All faculty and staff who receive information, directly or indirectly, regarding Title IX Sexual Harassment by or against an RIT Student or Employee must promptly report the incident to the Title IX Coordinator (or any Deputy Title IX Coordinator). When making a report, Employees should communicate all relevant information, including whether the alleged Complainant has expressed a desire for Confidentiality.

Employees making such reports in good faith are protected from retaliation (See [C06.0 Policy Prohibiting Discrimination, Harassment and Retaliation](#)). Employees' failure to comply with their reporting obligation may be a basis for disciplinary action.

Except as required by law, exceptions to an Employee's duty to report are as follows:

- The Employee is a Confidential Employee and receives the information while acting in a professional, confidential capacity as part of their university responsibilities (although Confidential Employees must report the type of incident without violating the Complainant's expectation of privacy);
- The Employee receives the information during a public awareness event such as "Take Back the Night," candlelight vigils, protests, "survivor speak outs" or other public forums;
- The Employee receives the information through a person's participation as a subject in an Institutional Review Board-approved human subjects research protocol;
- The Employee receives information through an in-class discussion, a class paper, or other academic assignment;
- The Employee is a student employee but did not receive notice of the incident in the student employee's university employment capacity; or
- The Employee themselves is the victim of the alleged sexual misconduct that they

declined to report, although the university strongly encourages them to utilize the available reporting mechanisms and resources.

The duty to report as a Responsible Employee differs from an Employee's obligation as a mandatory reporter under the laws of New York and under certain university policies that may require reporting, such as [C26.0 Protection of Minors on Campus Policy](#), or as a Campus Security Authority. Employees who have questions about their reporting responsibilities, or students who have questions about an employee's reporting responsibilities, should contact the Title IX Coordinator.

#### **F. Emergency Removal, Administrative Leave, or Other Interim Actions**

##### **1. Authority to Remove**

RIT retains the authority to remove a Respondent from RIT's Education Program or Activities on an emergency basis, including administrative leave for a non-student Employee Respondent, where RIT (1) undertakes an individualized safety and risk analysis, and (2) determines that there is an immediate threat to the physical health or safety of an RIT community member (including the threat of self-harm) arising from the allegations in a report of Title IX Sexual Harassment which justifies removal. Other interim actions, such as no contact orders or exclusion from certain locations, may also be issued under the same authority where necessary for the physical health or safety of any individual.

If the Respondent is a Student, then the Notice of Emergency Removal shall be issued by the Director of the Center for Student Conduct and Conflict Resolution. If the Respondent is an Employee, then the Notice of Emergency Removal will be issued by the assistant vice president for Human Resources, in consultation with the vice president of the division in which the Respondent works. The individual who issues the Notice of Emergency Removal will not be a decision-maker in any other part of the grievance process under this Policy for the case.

The Notice of Removal shall be in writing, and will provide the Respondent with the basis upon which removal was issued, and the opportunity to promptly challenge the determination.

##### **2. Challenging Emergency Removal**

A Respondent seeking to challenge a Notice of Emergency Removal shall make the request to the university administrator who issued the notice. The issuing university administrator shall refer the determination to a neutral office who will then determine whether to modify or rescind the Notice of Emergency Removal. The Respondent will be allowed to submit evidence in support of their request. The issuing university administrator shall determine if the requested modifications are appropriate, in consultation with the Title IX Coordinator, the assistant vice president of Student Affairs, or assistant vice president of Human Resources as applicable.

#### **IX. The Title IX Grievance Process**

Throughout the processes under this Policy, and to the maximum extent practical, RIT will

consider the wishes of the Complainant as to how they want to proceed with a case after a report.

### **A. The Formal Complaint Process**

To commence the formal grievance process, a Formal Complaint must be filed with the Title IX Coordinator or a Deputy Title IX Coordinator. The Formal Complaint may be made in person, by mail, or by electronic mail by a Complainant. It is the responsibility of parties to maintain and regularly check their email accounts during the grievance process.

#### **1. Jurisdictional Requirements and Process to File a Formal Complaint**

At the time of filing, a Complainant must be participating in or attempting to participate in the Education Program or Activity of RIT. **Other than a Title IX Coordinator, reporting third parties cannot file Formal Complaints. Nor may the Complainant choose to remain anonymous or otherwise prevent the Complainant's identity from being disclosed to the Respondent when filing a Formal Complaint.**

A Formal Complaint under this Policy must have at least one allegation of Title IX Sexual Harassment, and that allegation must have occurred in an Educational Program or Activity of RIT in the United States. A Complaint who cannot meet these jurisdictional requirements must be dismissed as a Title IX matter under this Policy but may still be subject to other university policies as noted herein.

As long as at least one allegation meets the jurisdictional requirement, other allegations that are related to the same facts, events, or incidents may be included in the Formal Complaint.

#### **2. Formal Complaint Filed by the Title IX Coordinator**

When the Title IX Coordinator determines that a Title IX Sexual Harassment allegation requires an investigation (for example, due to health and safety concerns, or Title IX requirements), then the Title IX Coordinator has discretion to initiate a Formal Complaint without the Complainant's desire to participate in a grievance process.

The Title IX Coordinator's decision to sign a Formal Complaint will occur only after the Title IX Coordinator has promptly contacted the Complainant to discuss availability of Supportive Measures, considered the Complainant's wishes with respect to Supportive Measures, and explained to the Complainant the process for filing a Formal Complaint. The Title IX Coordinator will inform the Complainant of this determination in writing, and the Complainant need not participate in the process further but will receive all notices issued under this Policy.

When a Formal Complaint is signed by a Title IX Coordinator rather than filed by a Complainant, the written notice of allegations will be sent to both parties, and the notice will include the identity of the parties, if known.

### 3. Consolidation of Formal Complaints

The university has the discretion to consolidate Formal Complaints alleging Title IX Sexual Harassment involving more than one Complainant or more than one Respondent where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances.

### 4. Notification of Investigation and Allegations

Upon receipt of a Formal Complaint, RIT will simultaneously provide both parties with a written Notice of Investigation. The Notice of Investigation shall include all of the allegations as soon as reasonably practicable after the university receives a Formal Complaint. The parties will be given sufficient time to prepare for any interviews or meetings following the Notice of Investigation. The Notice of Investigation will have the following information:

- A copy of this Policy;
- Written notice of the allegations and sufficient details known at the time (including the known identities of the parties involved in the incident, conduct allegedly constituting Title IX Sexual Harassment, dates, and locations of the alleged incident);
- A statement that Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will not be made until the conclusion of the grievance process;
- The statement informing the parties that they have the right to have an Advisor of Choice who may be, but is not required to be, an attorney, and who may inspect and review evidence;
- A statement that before the conclusion of the investigation, the parties may inspect and review 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 university does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source;
- A statement that the parties are expected to be truthful and act in good faith throughout the process;
- Notification that additional allegations or charges may be added at a later date and will be provided in writing;
- Notification about the existence of Supportive Measures and how to obtain them.

If, in the course of an investigation, RIT decides to investigate allegations about the Complainant or Respondent that are not included in the Notice of Allegations and are otherwise Title IX

Sexual Harassment falling under this Policy, then RIT will notify the parties of the additional allegations. The parties will be provided sufficient time to review the additional allegations, and to prepare a response before any initial interview regarding those additional charges. Upon completion of an investigation, RIT may include all charges that are related to the investigation arising from the same events or between the same parties.

#### 5. Dismissal of Formal Complaints

##### i. Mandatory Dismissal

If at least one of the allegations in the Formal Complaint would not constitute Title IX Sexual Harassment, or the other jurisdictional requirements are not met, then the Title IX Coordinator must dismiss the Formal Complaint under this Policy. Complainants will be permitted to amend and resubmit their complaints.

##### ii. Discretionary Dismissal

The Title IX Coordinator may dismiss a Formal Complaint brought under this Policy, or any allegations raised in the Formal Complaint at any time during the investigation or hearing, if:

- A Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
- The Respondent is no longer enrolled or employed by RIT; or
- If specific circumstances prevent RIT from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

##### i. Notice of Dismissal

Upon reaching a determination that a Formal Complaint will be dismissed, the Title IX Coordinator will promptly send a written Notice of the Dismissal of the Formal Complaint or any specific allegation within the Formal Complaint and the reason for the dismissal, simultaneously to the parties through their university email accounts.

##### ii. Appeal of Dismissal

Either party may administratively appeal the Notice of Dismissal using the procedure outlined in "Appeals," below.

### **B. Informal Resolution of Formal Complaint**

After the filing of a Formal Complaint, either party may request to pursue an informal resolution by submitting a written request to the Title IX Coordinator or a Deputy Title IX Coordinator. If

the university, the Complainant, and the Respondent all agree that the matter is eligible for informal resolution without additional investigation, then the parties may engage in informal resolution. **Informal resolution may occur only after the filing of a Formal Complaint and with the written informed and voluntary consent of both parties and the Title IX Coordinator.**

Informal resolution is generally not appropriate for Sexual Assault or violent conduct and is prohibited where the complaint is filed by a Student against a Respondent who is an employee (regardless of the content of the allegation).

Participation in the informal resolution process is completely voluntary. Participation may be initiated or withdrawn by either party at any time after the filing of a Formal Complaint but before a determination has been made at a live hearing, or before the signing of a Mutual Resolution Agreement. If participation is withdrawn, or if the informal resolution process concludes without a Mutual Resolution Agreement, then either party is able to continue with the Formal Complaint process under this Policy. *See also, [D19.0 Student Gender-Based and Sexual Misconduct Policy](#).*

Verbal or written statements made by parties or witnesses during the informal resolution process may not be used by the university or by the parties in a live hearing or other disciplinary process. However, physical evidence or other factual information that is introduced during informal resolution may be submitted as evidence in a subsequent investigation and in the hearing process if the informal resolution is not successful.

Informal resolution may encompass a broad range of conflict resolution strategies to arrive at the Mutual Resolution Agreement, including mediation, or restorative justice practices. The Mutual Resolution Agreement may include termination or withdrawal, sanctions detailed in this Policy, no contact orders, location restrictions, education or training, or restorative justice activities.

A Mutual Resolution Agreement, once signed by both parties, is considered final, binding on the parties, and may not be appealed.

### **C. Advisor of Choice and Participation of Advisor of Choice**

#### **1. Access to Advisors of Choice**

RIT will provide the parties equal access to advisors. Any restrictions on advisor participation will be applied equally to all parties. Students and Employees participating as Complainant or Respondent in the process under this Policy may be accompanied by an Advisor of Choice to any meeting or live hearing to which they are required or are eligible to attend. Except as otherwise stated in this Policy, Advisors of Choice shall not participate directly in the process.

RIT's obligations to investigate and adjudicate cases in a reasonably prompt timeframe under Title IX and other university policies apply to matters governed under this Policy, and RIT cannot

agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator in collaboration with the relevant offices involved in investigating and resolving a report under this Policy. RIT will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor of Choice, and may offer the party the opportunity to obtain a different Advisor of Choice or utilize one provided by the university.

## 2. Notice of Meetings and Interviews

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

## 3. Delays

Each party may request a one-time delay of any timeframe under this Policy of up to five (5) days for good cause – which may be granted or denied in the sole judgment of the Title IX Coordinator, the Director of Student Conduct and Conflict Resolution or the Director of Strategic Partnerships, Human Resources based on the stage of the process – provided that the requestor provides reasonable notice and the delay does not overly inconvenience other parties. For example, a request to take a five-day pause made an hour before a hearing for which multiple parties and their Advisors of Choice are scheduled to appear and prepared for will generally not be granted, while a request for a five-day pause in the middle of investigative interviews to allow a party to obtain certain documentary evidence shall generally be granted. Unless otherwise indicated in this Policy, the Title IX Coordinator, the Director of Student Conduct and Conflict Resolution, or the Director of Strategic Partnerships, Human Resources shall have sole discretion to grant any additional pauses in the process.

## **D. Investigation**

RIT will investigate all Formal Complaints alleging Title IX Sexual Harassment. Investigations will be performed in a reasonably prompt timeframe after the issuance of the Notice of Investigation.

### 1. Principles of Investigation and Fairness

When investigating a formal complaint and throughout the grievance process, RIT will:

- Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on RIT;
- Provide an equal opportunity for both parties to gather, inspect, and present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- Allow for both parties to choose their own Advisor of Choice or make an advisor available

to them should they not have one;

- Notify both parties of the availability of Supportive Measures;
- Not unduly restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- Provide equal notice to both parties about the case, including reports, dates and location of events or interviews, and allow sufficient time for preparation for a hearing;
- Investigate an allegation and conduct a live hearing as expeditiously as possible, while being fair and complete, and will communicate to the parties in writing about any timelines that appear to extend beyond typical cases;
- Train all persons involved with the investigation or hearing on this policy, Title IX, implicit bias, and trauma-informed investigation techniques; and
- Ensure that investigators are to be free from bias or conflicts of interest, ensuring that investigators do not serve as hearing officers or appeals members in cases or matters in which they investigate.

In most cases, investigations under this Policy will be conducted primarily by the following:

<b>If the Respondent is a....</b>	<b>Then the Primary Investigator will be ....</b>
Student	A RIT Public Safety Officer
Faculty or Staff	A Title IX Investigator
Senior Administrator (Vice Presidents, Vice Provost, Deans)	A Title IX Investigator unless a determination has been made to involve another internal or external investigator
President or member of the Board of Trustees	A Title IX Investigator unless a determination has been made to involve another internal or external investigator
Title IX Coordinator or member of the Title IX Office, Deputy Title IX Coordinators, or Title IX Investigator	An internal or external Investigator upon the discretion of the university

In all cases, the university retains the discretion to request assistance in conducting certain investigations from other trained investigators housed either in other internal university offices or from investigators external to the university.

Investigators will not access, consider, disclose, or otherwise use a party's records that are made

or maintained by a physician, psychiatrist, therapist or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, without the party's voluntary, written consent.

During an investigation, the investigator will collect information related to the allegations contained in the Formal Complaint and any other written statement provided in a report. This may include, but is not limited to, photographs, text messages, social media posts, or group chat communications. The investigator will interview both parties and any witnesses who, in the investigator's sole discretion, may have information related to the alleged conduct or incident.

Parties and witnesses are not permitted to record any investigative meetings. The parties will be updated as the investigation proceeds and will have access to the materials collected by the investigator as stated in this Policy.

## 2. Inspection and Review of Evidence

Prior to completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation that is directly related to the allegations in the Formal Complaint. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to the conclusion of the investigation.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint and will include:

- Evidence that is obtained as part of the investigation that is directly related to the allegations in the Formal Complaint, even if that evidence does not end up being relied upon by the decision-makers in making a determination regarding responsibility; and
- Inculpatory or exculpatory evidence (*i.e.*, evidence that tends to prove or disprove the allegations) that is directly related to the allegations in the Formal Complaint, whether obtained from a party or other source.

The university will send the evidence made available for each party and each party's Advisor of Choice, if any, to inspect and review through an electronic format (or a hard copy upon reasonable request). The university shall have the sole discretion to determine the format and any restrictions or limitations on access. The parties and their Advisors of Choice will not be permitted to photograph or otherwise copy or disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process.

The parties will have ten (10) days to inspect and review the evidence and submit a written

response by email to the investigator. The parties' written responses will be disclosed to the other parties in the Final Investigation Report.

Parties may request in writing a reasonable extension, which may be granted at the sole discretion of the investigator. The investigator will consider the parties' written responses before completing the Final Investigation Report.

### 3. Final Investigation Report

The investigator, in collaboration with the Title IX Office, will create a Final Investigation Report that summarizes relevant evidence. The Final investigation Report is not intended to catalog all evidence obtained by the investigator, but only to provide a summary of that evidence that, in the reasoned judgment of the investigator, is relevant to the allegations in the Formal Complaint. Only relevant evidence tending to prove and disprove the allegations will be referenced in the Final Investigation Report. The investigator may redact irrelevant information from the Final Investigation Report when that information is contained in a document or evidence that is otherwise relevant.

The parties shall receive a copy of the Final Investigation Report at least ten (10) days prior to any scheduled hearing. Any evidence subject to inspection and review will be available to the parties at the hearing, including for purposes of cross-examination, in an appendix to the Final Investigation Report.

### 4. Preparing for the Live Hearing

All materials that will be used at the hearing must be submitted to Student Conduct and Conflict Resolution (for student cases) or Human Resources (for employee cases). Those offices will then schedule a hearing to be held at least ten (10) days after the parties' receipt of the Final Investigation Report. The materials submitted to those offices may include:

- All documents (including the Final Investigation Report) and other tangible evidence that will be used as evidence during the hearing;
- The names of any witnesses and a brief summary concerning the subject matter of the witness' expected testimony; and
- The name of any Advisor of Choice that will be in attendance at the hearing and whether that person is an attorney.

Absent extenuating circumstances, no Advisor of Choice, witness, or document, or tangible evidence will be permitted at the hearing unless such information was timely submitted. It is the responsibility of the party wanting to present a witness to ensure that the witness is present at the hearing.

## **E. Live Hearing**

Unless otherwise resolved through Informal Resolution which may include a Mutual Resolution Agreement set forth in this Policy, (1) all adjudications of Title IX Sexual Harassment will be conducted by live hearings, and (2) the university will not issue a disciplinary sanction arising from an allegation of Title IX Sexual Harassment without holding a live hearing.

### **1. General Information and Hearing Officer**

Live hearings will be presided over by hearing officers who are trained on this Policy, Title IX regulations, trauma-informed responses, and relevant evidentiary standards, and who are free from bias or conflicts of interest.

Prior to the hearing, the Center for Student Conduct and Conflict Resolution (for Student cases) or Human Resources (for Employee cases) will work with the parties to schedule the hearing and will provide parties with relevant information regarding the conduct of the hearing. Hearing officers will also make rulings on the relevancy of evidence or testimony, and other matters that arise that must be decided during the hearing.

### **2. General Rules of Live Hearings**

All parties and individuals will maintain professional decorum throughout the hearing. Abusive statements towards others will not be tolerated.

At the live hearing, the hearing officers shall permit each party's advisor to ask the other party and any witnesses relevant questions and follow-up questions, including those challenging credibility. The hearing officers have the sole authority to determine the relevance of each question and to disallow questions. Cross-examination at the live hearing must be conducted directly, orally, signed, and in real time by the party's Advisor of Choice and never by a party.

RIT will provide for the live hearing to occur with the parties located either in the same room, in separate rooms with technology enabling both the hearing officers and the parties to simultaneously see and hear the proceedings in real time, or remotely in real time.

Individuals may have an Advisor of Choice attend the hearing with them. These Advisors of Choice may be, but are not required to be, an attorney. The role of an Advisor of Choice during the hearing is limited to asking questions of the other party and otherwise providing quiet counsel to the individual Complainant or Respondent during the hearings.

The names of Advisors of Choice should be provided to the Center for Student Conduct and Conflict Resolution (Students) or Title IX Coordinator (Employees) at least five (5) days prior to the hearing. If a party does not have an Advisor of Choice present at the live hearing, RIT will provide one to that party, without fee or charge, to conduct cross-examination on behalf of that party.

RIT will create a recording of any live hearing and make it available to the parties for inspection and review. All parties are prohibited from making video or audio recordings during a live hearing. The hearing officer may remove any person who violates this rule from the hearing.

The hearing officers may determine that multiple sessions or a continuance (*i.e.*, a pause of the hearing until a later date or time) is needed to complete a hearing. If so, RIT will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

### 3. Hearing Procedures

For all live hearings conducted under this Policy, the hearing procedure will be as follows:

- The hearing officers will open and establish rules and expectations for the hearing;
- The hearing officers will ask questions of the parties and any witnesses and may question investigators when necessary and in the sole discretion of the hearing officers;
- The parties will be given the opportunity for live cross-examination by their Advisors of Choice;
- The parties will be given the opportunity to make an impact statement prior to the conclusion of the hearing.

During the parties' cross-examination, hearing officers will have the authority to pause cross-examination at any time for the purposes of asking their own follow up questions and any time necessary in order to enforce the established rules of decorum.

### 4. Live Cross-Examination Procedure

Each party's Advisor of Choice will conduct live cross-examination of the other party or parties and witnesses. During this live-cross examination, the Advisor of Choice will ask the other party or parties and their witnesses Relevant Questions and follow-up questions, including those challenging credibility directly, orally, and in real time.

Before any cross-examination question is answered, the hearing officers will determine if the question asked is a Relevant Question. Cross-examination questions that are duplicative of those already asked, including by the hearing officers, may be deemed irrelevant if they have already been asked and answered.

Should a party or the party's Advisor of Choice choose not to cross-examine a party or witness, the party shall affirmatively waive cross-examination through a written, oral, or signed statement to the hearing officer. If a party or witness does not appear at the hearing, or does not submit to cross-examination at the live hearing, the hearing officers may not rely on any statement of that party or witness in reaching a determination regarding responsibility. This

does not apply to any “statements” made outside of the investigation process which are contained in verifiable media or documents such as emails, text messages, or video recordings.

#### 5. Record of the Hearing

Live hearings will be audio recorded by the university and will be made available to the parties only. The Center for Student Conduct and Conflict Resolution (students) or Human Resources (employees) shall determine the procedures for access. All parties are prohibited from photographing, or making audio or video recordings while accessing recordings under this Policy.

#### 6. Determination Regarding Responsibility

##### i. Standard of Review

Hearing officers will make a determination using the Preponderance of Evidence standard, meaning that to find a person responsible for a charge it must be more likely than not that the reported conduct happened.

##### ii. General Considerations for Evaluating Testimony and Evidence

Determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the hearing officers.

Hearing officers will not draw inferences regarding the credibility of a party or witness based on the status of the party or witness as a Complainant, Respondent, or witness. Nor will their determination be based on their judgments in stereotypes about how a party or witness would or should act under the circumstances. Credibility judgments will rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence. The hearing officers will not 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.

##### iii. Components of the Determination Regarding Responsibility

Within ten (10) days of the completion of the hearing, the hearing officers will issue a written Outcome Letter which will be provided to both parties simultaneously and, in the case of students, in person when possible. The written Outcome Letter will include the following:

- Identification of the allegations potentially constituting covered Title IX Sexual Harassment;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings

held;

- Findings of fact supporting the determination;
- Conclusions regarding which section of this Policy (or other relevant policies, if any) the Respondent has or has not violated.
- For each allegation:
  - A statement of, and rationale for, a determination regarding responsibility;
  - A statement of, and rationale for, any disciplinary sanctions the university imposes on the Respondent; and
  - A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the university's Education Program or Activity will be provided by the recipient to the complainant; and
  - The recipient's procedures and the permitted reasons for the Complainant and Respondent to appeal (described below in "Appeal").

In all cases, the hearing officers will hear relevant testimony regarding all charges and issue a written determination on each charge related to Title IX Sexual Harassment, and any other charges supported by the evidence that arise out of the same facts or circumstances in the Outcome Letter. Because Title IX Sexual Harassment uses a more rigorous standard to establish sexual harassment with different procedural rules, an individual may be found "not responsible" for Title IX Sexual Harassment under this Policy, but still be found responsible for non-Title IX sexual harassment under other RIT policies including [C06.0 Policy Prohibiting Discrimination, Harassment and Retaliation](#); [D19.0 Student Gender-Based and Sexual Misconduct Policy](#), or [D18.0 Student Conduct Process](#). Other charges wholly unrelated to sexual misconduct (*i.e.*, other forms of discrimination or behavioral matters) may be separately adjudicated under applicable policies for that conduct.

iv. Finality of Determinations

The determination regarding responsibility set forth in the Outcome Letter is final either (1) on the date that RIT provides the parties with the written determination of the result of the appeal if an appeal is filed consistent with this Policy, or (2) if an appeal is not filed, the date on which the opportunity to appeal expires.

7. Sanctions for Students

Sanctions for violations of this Policy will be commensurate with the conduct and may include, but are not limited to, one or more of the following:

- Warning

- Probation
- Temporary or permanent ban from campus or specific campus locations (such as residential colleges or other RIT residential facilities)
- Mandatory educational programs
- Ban from participating in campus organizations or campus activities, including bans on particular forms of undergraduate activities
- Disqualification from future employment or student leadership positions
- Withholding of transcripts, grades, diploma, or degree until after the hearing, appeal, or the sanction is complete
- Transcript notations consistent with [D19.0 Student Gender-Based and Sexual Misconduct Policy](#)
- Separation from the university, which includes suspension, for a period of time
- Revocation of admission and/or degree
- Expulsion

i. Sanctions for Employees

Sanctions for violations of this Policy will be commensurate with the conduct and may include, but are not limited to, one or more of the following:

- Written Warning or Final Written Warning
- Unpaid administrative leave
- Temporary or permanent ban from campus or specific campus locations
- Mandatory educational programs
- Partial or full trespass warnings to remain off campus or parts of campus
- Permanent or temporary suspension from employment and/or enrollment
- Removal of supervisory titles or duties
- Demotion
- Office Relocation
- Restriction of attendance at meetings, departmental events

- Termination of employment
- Withholding merit increases
- Permanent or temporary teaching restrictions or additional oversight in classrooms, labs, or with Student interactions
- Assignment of mentors or coaching

After making a determination of responsibility for employees, the hearing officer may consult with the appropriate dean, the vice president of the division in which the employee works, the assistant vice president of Human Resources, or other administrative individuals or offices such as the Office of Legal Affairs, or the Title IX Coordinator to determine the appropriate disciplinary sanctions and to ensure consistency. However, the final Outcome Letter shall be issued by the hearing officers.

## **X. Appeals**

Either party may appeal a determination after a hearing and a Notice of Dismissal under this section.

### **i. Timing and Grounds for Appeal**

An appeal must be made in writing within ten (10) days of receiving the written Outcome Letter. During this period, RIT may provide Supportive Measures to either party but will not impose sanctions or take other disciplinary action. Appeals may be amended until the expiration of the allotted time.

Appeals must be based on one of the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that could affect the outcome of the matter and was not reasonably available at the time the determination regarding responsibility or dismissal was made. A summary of the alleged new evidence and its potential impact must be included;
- The Title IX Coordinator, investigator, or a hearing officer had a conflict of interest or bias for or against complainants or respondents generally, or against the individual Complainant or Respondent, that affected the outcome of the matter; or
- The severity of the sanction issued falls outside of the range of sanctions the university has designated for the conduct and the cumulative record of the party against whom the sanction was issued.

### **ii. Form and Content of Appeal**

Appeals must be made in writing and must include the name of the appealing party and the grounds upon which an appeal is requested. The party requesting the appeal must demonstrate that the appeal is timely and must provide sufficient information to demonstrate that the grounds for appeal have been met. If the grounds for appeal is to consider new facts sufficient to alter the decision that were not known or knowable to the appealing party before or during the time of the hearing, then the written appeal must include such information.

The non-appealing party will receive a copy of the appeal. The non-appealing party may submit a written statement within ten (10) days of receipt of the appeal.

An appeals officer will review the appeal request and make a threshold determination regarding the timeliness of the appeal and whether the appeal is based on the one of the grounds listed in this Policy. The party requesting an appeal must show that the grounds for an appeal request have been met. The original determination and sanction in the Outcome Letter will stand if the appeal is not timely or is not based on the permissible grounds listed above. This threshold determination shall be final.

### iii. General Rules for Appeals

If an appeal is granted, then unless otherwise noted, the appeal will be heard and determined by a Title IX Appeal Board (TAP) of three members selected from a pool of trained faculty and staff. The following general rules will apply:

- Appeals are not intended to be full reinvestigations of the allegation(s). The TAP will not substitute its judgment for that of hearing officers.
- The TAP's review is limited to the Final Investigation Report, the Outcome Letter, evidence that was presented during the hearing, any new evidence submitted by the parties that was not reasonably available at the time of the live hearing, and the parties' written appeals to decide if an appeal should be granted or denied. Except under limited circumstances, appeals should not include any additional witnesses or testimony of any form.
- Appeals granted based on new evidence may be remanded to the original hearing officers for reconsideration. Appeals based on alleged bias or conflict of interest involving the original hearing officers will be remanded to a new panel.
- Appeals based on the severity of the sanctions will be administratively determined by the TAP based solely on the existing record (*i.e.*, the Final Investigation Report, the Outcome Letter, evidence that was presented during the hearing, and any pertinent documentation regarding the grounds for appeal).
- If the TAP convenes a hearing, then the parties will be given the opportunity to make

statements to the TAP.

iv. Results on Appeal

Within ten (10) days of the appeal hearing, the TAP will issue a written decision to the parties. The written decision of the appeal will be provided in writing simultaneously to both parties, and will include a rationale for the decision. The appeal decision may:

- Uphold the original outcome (both the finding of responsibility or non-responsibility and the sanctions if any);
- Uphold the finding of responsibility, but modify the sanction by either increasing or reducing (but not eliminating) the sanction; or
- Reverse a finding of responsibility and the sanction(s) and remand the case for a new hearing consistent with the determination of the TAP and the rights set forth in this Policy, including the right to appeal the new outcome upon the grounds stated in this Policy.

v. Finality of Decision on Appeal

Once an appeal is decided, the outcome is final. Further appeals are not permitted.

**XI. Expectation of Good Faith and Prohibition of False Statements**

RIT expects all parties to act in good faith when adjudicating matters under this Policy. This includes a strict prohibition on knowingly making false statements, submitting false information, and/or withholding evidence during any phase of the process. Allegations of false statements will be adjudicated in accordance with the appropriate university policy based on the status of the Respondent as a Student or Employee.

**XII. Conflict of Interest and Bias**

Any individual designated by RIT as a Title IX Coordinator, investigator, hearing officer, appellate officer, or any person designated by RIT to facilitate an informal resolution process, must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

In the event that there is a conflict of interest, the university will appoint an alternative individual who meets the training or position requirements of this policy but does not have a conflict.

**XIII. Prohibition Against Retaliation**

The university prohibits retaliation in any form against a person for reporting suspected or actual

wrongful conduct in good faith, including any conduct believed to violate this Policy. The university will take all appropriate and necessary action to punish retaliation against persons making such reports.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.

RIT will keep confidential the identity of any individual who has made a Report or complaint of Title IX Sexual Harassment under this Policy, any individual who has been reported to be the perpetrator of Sex Harassment, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), including the conduct of any investigation, hearing, or judicial proceeding arising under this Policy.

Complaints alleging retaliation under this Policy should be filed with the Office of Human Resources if employee related or the Title IX Office if student related. If the complaint involves the Office of Human Resources, the Title IX Coordinator, or the Deputy Coordinators, the complaint should be filed with the assistant vice president for Compliance and Ethics. *See also* [C00.0 Code of Ethical Conduct and Compliance](#), [C06.0 Policy Prohibiting Discrimination, Harassment and Retaliation](#) and [D19.0 Student Gender-Based and Sexual Misconduct Policy](#).

#### **XIV. Training Requirements**

The university will provide appropriate training for faculty, staff, and students concerning this Policy and the duty to report information.

Further, those individuals involved in investigations, hearings, or appeals under this Policy will receive additional training as may be appropriate or required. This includes training on Title IX definitions, the scope of RIT educational programs and activities, trauma informed responses, and how to serve impartially (including avoiding prejudgment of the facts, conflicts of interest, and bias). Additionally, individuals will be trained on investigations, relevancy, or informal resolution (as may be appropriate). These training materials will be posted on the [Title IX website](#).

#### **XV. Relationship to Other Laws**

Where conduct may implicate both Title IX and Title VII of the Civil Rights Act and/or New York State Human Rights Law, this Policy will take precedence in the order in which RIT investigates the conduct, but is not exclusive. The university will also adjudicate the matter under Policy C.6.0 notwithstanding the outcome of any determination or appeal under this Policy.

#### **XVI. Additional Information**

Additional information or a list of the resources may be found on the [Title IX website](#).

**APPENDIX A**

I. Confidential Resources are as follows:

<p><b>RIT Counseling and Psychological Services (CaPS)</b> 585-475-2261 <a href="http://www.rit.edu/counseling/">www.rit.edu/counseling/</a> Services provided at no cost</p>	<p><b>Spirituality and Religious Life</b> 585-475-2137 <a href="http://www.rit.edu/studentaffairs/religion">http://www.rit.edu/studentaffairs/religion</a> Services provided at no cost</p>
<p><b>RIT Student Health Center</b> 585-475-2255 <a href="http://www.rit.edu/studentaffairs/studenthealth/">http://www.rit.edu/studentaffairs/studenthealth/</a> Services provided at no cost.</p>	<p><b>NTID Counseling &amp; Academic Advising</b> 585-475-6400 <a href="https://www.rit.edu/ntid/caas">https://www.rit.edu/ntid/caas</a> Services provided at no cost</p>
<p><b>RIT Ombuds Office</b> 585-475-7200 or 585-475-2876 <a href="http://www.rit.edu/ombuds/contact-us">http://www.rit.edu/ombuds/contact-us</a> Services provided at no cost</p>	

II. In addition to the Title IX Coordinator and the Responsible Administrators, other non-Confidential Resources on campus that can provide assistance include:

<p><b>RIT Public Safety</b> (24 hours a day, 7 days a week) 585-475-2853 (V) or 585-205-8333 (text) <a href="http://www.rit.edu/fa/publicsafety/">www.rit.edu/fa/publicsafety/</a> Services provided at no cost</p>	<p><b>RIT Advocacy Program</b> 585-475-7668 (V/TTY) <a href="http://www.rit.edu/studentconduct/advocacy.php">www.rit.edu/studentconduct/advocacy.php</a> Services provided at no cost</p>
<p><b>Center for Student Conduct and Conflict Resolution</b> 585-475-5662 <a href="http://www.rit.edu/studentconduct/">www.rit.edu/studentconduct/</a> Services provided at no cost</p>	<p><b>Student Financial Services</b> 585-475-6186 <a href="http://www.rit.edu/fa/sfs/">http://www.rit.edu/fa/sfs/</a> Services provided at no cost</p>
<p><b>RIT Human Resources</b> 585-475-2424 <a href="http://www.rit.edu/fa/humanresources/">www.rit.edu/fa/humanresources/</a> Services provided at no cost</p>	<p><b>Office of Financial Aid and Scholarships</b> 585-475-2186 <a href="https://www.rit.edu/emcs/financialaid/contact.html">https://www.rit.edu/emcs/financialaid/contact.html</a> Services provided at no cost</p>

<p><b>Division of Diversity and Inclusion</b>  585-475-6546  <a href="http://www.rit.edu/diversity/diversity-inclusion">www.rit.edu/diversity/diversity-inclusion</a>  Services provided at no cost</p>	<p><b>RIT Student Government Office</b>  585-475-4043  <a href="mailto:sgstaff@rit.edu">sgstaff@rit.edu</a>  Assistance with legal services provided at no cost</p>
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III. Off-campus community resources include:

<p><b>Willow Center</b>  24-Hour Hotline  585-222-SAFE (7233)  585-348-SAFE (7233) Text  <a href="http://willowcenterny.org/">http://willowcenterny.org/</a>  Services provided at no cost</p>	<p><b>National Domestic Violence Hotline</b>  (24 hours a day, 7 days a week)  800-799-7233  <a href="http://www.thehotline.org/">http://www.thehotline.org/</a>  Services provided at no cost</p>
<p><b>Lifeline</b>  585-275-5151  <a href="http://www2.monroecounty.gov/mh-emergency-resources">http://www2.monroecounty.gov/mh-emergency-resources</a>  Services provided at no cost</p>	<p><b>National Dating Abuse Helpline</b>  (24 hours a day, 7 days a week)  866-331-9474  <a href="http://www.loveisrespect.org/">http://www.loveisrespect.org/</a>  Services provided at no cost</p>
<p><b>Monroe County Sheriff's Office</b>  (24 hours a day, 7 days a week)  585-753-4178  <a href="http://www.monroecounty.gov/sheriff">www.monroecounty.gov/sheriff</a>  Services provided at no cost</p>	<p><b>New York State Office of Victim Services</b>  <a href="https://ovs.ny.gov/">https://ovs.ny.gov/</a>  800-247-8035  Services provided at no cost</p>
<p><b>IGNITE (Hotline)</b>  24-Hour Hotline  585-222-SAFE (7233)  585-348-SAFE (7233) Text  <a href="https://willowcenterny.org/our-services/deaf-ignite/">https://willowcenterny.org/our-services/deaf-ignite/</a>  Services provided at no cost</p>	<p><b>NYS Police Sexual Assault Hotline</b>  <a href="https://consentfirst.troopers.ny.gov/">https://consentfirst.troopers.ny.gov/</a>  844-845-7269  Services provided at no cost</p>

Information on sexually transmitted infections  
and sexual assault forensic examinations:

**RESTORE Sexual Assault Services**

<https://restoresas.org/>

Monroe County (585-546-2777)

24 hour hotline

**National Sexual Assault Hotline**

(24 hours a day, 7 days a week)

800-656-4673

[https://www.rainn.org/get-help/national-  
sexual-assault-hotline](https://www.rainn.org/get-help/national-sexual-assault-hotline)

Services provided at no cost

**Primary Responsible Office:**

Title IX Office, Office of Compliance and Ethics

**Policy History:**

August 14, 2020