



Rocky Vista University

Sexual Misconduct

and

Non Discrimination Policy

Reporting, Investigating, and Hearing Procedures

*(Title IX Regulatory Requirements Incorporated in Red Text)*

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## **Sexual Misconduct and Non Discrimination Policy**

Rocky Vista University (the “University”) is committed to the principles of academic and professional excellence and to fostering a positive learning and working environment for its students and employees. Accordingly, the University does not discriminate on the basis of sex in the administration of, or in connection with, its educational and admission policies, scholarship and loan programs, or employment practices, and it is required by Title IX of the Educational Amendments of 1972 to not discriminate in such a manner.

It is the intent of the University to provide its employees and students with an environment free of sexual discrimination, sexual harassment, and sexual violence (collectively “sexual misconduct”), and to respond appropriately to reports of sexual misconduct. The civil and respectful treatment of one another is a foundation of our principles, and the University will not tolerate any form of sexual misconduct. Persons found responsible for sexual misconduct are subject to disciplinary measures, up to and including dismissal or termination, consistent with this Sexual Misconduct Policy and Procedures (“Policy”) and any other applicable disciplinary procedures.

Compliance with this Policy is a term and condition of student enrollment and employment at the University. Questions about this Policy or Title IX can be directed to the Title IX Coordinator, Ms. Laura Dement, 720-874-2481, [ldement@rvu.edu](mailto:ldement@rvu.edu), A110, Accounting and Finance Suite, CO campus.

**NOTE: SEXUAL HARASSMENT, as defined by the Title IX Final Rule as amended on May 19, 2020 as found in the Code of Federal Regulations, 34 C.F.R. Part 106, *Non Discrimination on the Basis of Sex in Education and Employment Programs and Activities*, will follow specific investigation and grievance procedures as promulgated by the Title IX Final Rule and will be noted as such within this document.**

**Any other sexual misconduct or discrimination based on sex/gender outside of the Title IX definition or jurisdiction of sexual harassment will continue to be handled as per the investigation and grievance procedures outlined in this document.**

### **Reporting Sexual Misconduct or Discrimination Based on Sex/Gender Identity**

Any RVU student, employee, or third-party affiliate may report sexual misconduct/discrimination to:

- A. The RVU Title IX Coordinator at 720-874-2481 or [ldement@rvu.edu](mailto:ldement@rvu.edu) (Takes in Formal Complaints)
- B. OWA (Officials With Authority): President, Vice Presidents, Deans, Assoc. Deans, or Provost
- C. Mandated Reporters: All RVU Faculty and Staff (Except Counselors)

## I. Definitions and Examples of Prohibited Sexual Conduct and Sex Discrimination

All of the definitions stated below and the use of terms in this Policy are intended to be consistent with how such terms are defined and interpreted in and under applicable state and federal laws and regulations, as amended from time to time. Words in definitions that are further defined are *italicized*.

**Actual Knowledge** means notice of sexual misconduct, sexual harassment or allegations of sexual harassment to RVU's Title IX Coordinator or any official who has authority to institute corrective measures on behalf of RVU.

**Complainant:** An individual who is alleged to be the victim of conduct that could constitute sexual harassment or sexual discrimination. May also be referred to as the Reporting Party.

**Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or sexual discrimination. May also be referred as Responding Party.

**Formal Complaint:** A document signed and filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment or sexual discrimination against a respondent and requesting that RVU investigate the allegation(s). (May be filed in-person or via email to the Title IX Coordinator by complainant.)

**Educational Program or Activity** means locations, events, or circumstances over which RVU exercises substantial control over both the respondent and the context in which sexual harassment occurs and also includes any building owned or controlled by RVU or a student organization that is officially recognized by RVU.

**Sexual Discrimination** includes but is not limited to circumstances when an employee or student suffers an adverse employment or academic consequence (such as denial or loss of employment or academic opportunities or status, reductions in pay or grades) on the basis of sex or *sexual orientation*, and also includes circumstances where an employee or student is subjected to *sexual harassment* or *sexual violence*.

**Sexual Violence** is a serious form of sexual harassment and falls within Title IX regulations requiring a specific set of grievance procedures. This type of sexual harassment constitutes a form of prohibited sexual discrimination under Title IX and is defined as physical sexual acts perpetrated against a person's will or where a person is incapable of giving *consent* (e.g., due to the person's age or use of drugs or alcohol, or because an intellectual or other disability prevents persons from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including *rape*, *sexual assault*, *dating violence*, *domestic violence*, *stalking*, and

*sexual coercion*, all of which are forms of sexual discrimination prohibited by this policy.

**Sexual Harassment, as defined by Title IX 34 CFR §106.30**, constitutes three forms of prohibited sexual discrimination as listed below. Any formal complaint filed by a complainant that is determined to fall under the Title IX definition of Sexual Harassment to RVU's Title IX Coordinator will be investigated and adjudicated following the process as indicated by Title IX regulations in section V.

1. Quid Pro Quo Sexual Harassment:

An employee of RVU conditioning the provision of an aid, benefit, or service of RVU on an individual's participation in unwelcome sexual conduct.

This includes situations wherein:

- a. Submission to such conduct is made to appear to be a term or condition of employment, enrollment, attendance, or participation in class;
- b. Submission to or rejection of such conduct affects employment or academic decisions;
- c. Making sexual propositions or pressuring students or employees for sexual favors; and
- d. Punishing a refusal to comply with or to condition a benefit on a sexual based request or advance.

2. Unwelcome Conduct of a sexual nature determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to RVU's education program or activities.

3. Sexual Assault defined as:

- Any attempted or actual sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.
  - Rape is 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. This offense includes the rape of both males and females.
    - Includes the crime of Rape, regardless of the age of the victim, if the victim did not consent or if the victim was incapable of giving consent. If the victim consented, the offender did not force or threaten the victim, and the victim was under the statutory age of consent, it is defined as Statutory Rape.

- Fondling is 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 his/her age or because of his/her temporary or permanent mental incapacity
  - Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - Statutory Rape is sexual intercourse with a person who is under the statutory age of consent.
- **Dating Violence** is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement 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. For the purposes of this definition—
    - Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - Dating violence does not include acts covered under the definition of domestic violence.
  - **Domestic Violence** is 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 in which the crime of violence occurred;
    - 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 in which the crime of violence occurred.

\*To categorize an incident as Domestic violence, the relationship between the perpetrator and the victim must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

- **Stalking** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
  - Fear for the person’s safety or the safety of others; or
  - Suffer substantial emotional distress. For the purposes of this definition—
    - o **Course of conduct** means two or more acts, including, but not limited to, acts in 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.
    - o **Reasonable person** means a reasonable person under similar circumstances and with similar identities to the victim.
    - o **Substantial emotional distress** means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

(Non-Title IX Definitions (con’t.) \_\_\_\_\_)

**Unwelcome Conduct Creating a Hostile Work or Educational Environment**

Verbal, physical or other behavior of a sexual nature that is reasonably considered unacceptable by an employee or student. This includes, but is not limited to, commenting about an individual’s body or appearance when such comments go beyond mere courtesy, telling jokes that are reasonably considered offensive by others, or other tasteless sexually-oriented comments, innuendoes, or actions that reasonably offend others. Examples include, but are not limited to, sexual remarks, jokes, or gestures communicated verbally, in writing, or through electronic means such as:

- a. Writings, pictures, or drawings of a sexual nature (or the displaying or distributing of same);
- b. Websites, social media or e-mails depicting writings, pictures or drawings of a sexual nature;
- c. Telling of sexual or dirty jokes;
- d. Sexual comments about human anatomy that are reasonably considered suggestive, offensive, or reasonably inappropriate;
- e. Spreading sexual rumors or rating other people as to sexual activity or performance;



- f. Simplistic generalizations about gender attributes, differences, and roles of individuals or groups; and
- g. *Sexual exploitation*.

**Third-Party Sexual Harassment** includes persons who are not directly the target of sexual harassment but who work in environments where sexual harassment is allegedly occurring and can file “third party” and “bystander” harassment claims. Third parties who were not directly the target of sexual harassment may be able to bring a claim against the Responding Party if the third party has suffered certain repercussions due to the Responding Party's inappropriate actions.

**Sexual Exploitation** occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's *consent*. Examples of behavior that could rise to the level of sexual exploitation include but are not limited to:

- a. Prostituting another person;
- b. Recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's *consent*;
- c. Distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not *consent* to such disclosure and objects to such disclosure; and
- d. Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's *consent*, and for the purpose of arousing or gratifying sexual desire.

**Consent** must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

**Non-Consensual Intentional Sexual Contact** is any intentional sexual touching with any object, by any person upon another, without consent and/or by force.

**Non-Consensual Sexual Intercourse** is any sexual intercourse, however slight, by any person

upon another without consent and/or by force.

**Unwelcome Conduct** means the student or employee did not request or invite the conduct and considered the conduct to be undesirable or offensive. Unwelcome conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the internet), or other conduct that may be physically threatening, harmful, or humiliating. Unwelcome conduct does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Unwelcome conduct can involve persons of the same or opposite sex. Participation in the conduct or the failure to complain does not always mean that the conduct was welcome. The fact that a person may have welcomed some conduct does not necessarily mean that a person welcomed other conduct. Also, the fact that a person requested or invited conduct on one occasion does not mean that the conduct is welcome on a subsequent occasion.

**Intimidation** is unlawfully placing another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**Sexual Orientation** means a person's orientation toward heterosexuality, homosexuality, bisexuality, *transgender* status, or another person's perception thereof.

**Transgender** means having a *gender identity* or *gender expression* that differs from societal expectations based on gender assigned at birth.

**Gender Identity** means an innate sense of one's own gender.

**Gender Expression** means external appearance, characteristics, or behaviors typically associated with a specific gender.

## II. Sexual Misconduct Reporting and Request Procedures (**outside of Title IX definition**)

Any individual who believes that an employee or student of the University, including him or herself, has been subjected to sexual misconduct is encouraged to immediately follow the applicable reporting procedure and may also pursue criminal, civil, and/or administrative remedies provided by federal and state law. The University encourages all individuals to report possible sexual misconduct that they suffer or observe, and requires responsible employees of the University to do so as found in this policy.

The purpose of these reporting, investigation and hearing procedures is to provide prompt and equitable processes for addressing and investigating incidents of sexual misconduct allegedly committed against students and employees. A lengthy period of time between an alleged

occurrence and an investigation may make fact-finding more difficult; therefore, individuals are encouraged to raise concerns and complaints as soon as possible.

**Please note: If alleged sexual misconduct falls under the Title IX definition of Sexual Harassment as described above in the definitions, a separate investigation and hearing process will occur and is outlined separately in this document under “Title IX Sexual Harassment Process and Procedures”. (V.)**

### **Reporting Sexual Misconduct Allegedly Committed by an Employee or a Student**

The following procedures apply to all complaints of sexual misconduct alleged to have been committed by an employee or a student, including sexual misconduct allegedly committed by an employee against a student, a student against a student, an employee against an employee, or a student against an employee. Reports may be made by either students or employees.

Any manager, supervisor, faculty member, or staff member who observes conduct in violation of this Sexual Misconduct Policy are considered Mandated Reporters and must promptly report the conduct to the University’s Title IX Coordinator, who may involve the Office of Human Resources, the Office of Student Affairs, or legal counsel if deemed appropriate.

Managers and supervisors must not conduct their own interviews or investigations. The University will evaluate the investigation request and, in its sole discretion, will determine whether and how to conduct an investigation of the allegations in a prompt and equitable manner. If the University concludes that conduct violated this Sexual Misconduct Policy, it may impose appropriate disciplinary sanctions on the Respondent, up to and including termination or dismissal.

### **Supportive Measures During and After Grievance Procedures**

Sometimes it is necessary to take steps before or during an investigation, especially an investigation of alleged sexual assault, dating or domestic violence, or stalking to protect the rights and interests of the parties involved. Such measures may be designed to reduce or eliminate contact between the involved parties so that they may feel safe in their education environment. Protective or supportive measures may also guard against further actual or perceived discrimination, harassment, violence or retaliation. A formal complaint does not have to be signed to receive supportive measures.

Supportive or protective measures may include, but are not limited to, temporary changes in working or learning conditions (such as changes to faculty, class, supervisor or office location), modification of work or class schedules, leaves of absence, directives to the involved parties to avoid personal contact or refrain from such contact without a neutral third person present, campus escort, temporary suspension of an employee with or without pay, or temporary suspension of a

student or students. As soon as practicable after receipt of a Request for Investigation, the University will make changes to a Complainant's and/or Respondent's academic or work situations if requested and reasonably available. If interim measures are being taken due, at least in part, to a delay occasioned by the pendency of a criminal investigation and/or prosecution, the University will continue to update the parties on the status of the investigation and inform the parties when the school resumes its Title IX investigation.

### **No Contact Order**

During a formal investigation or an investigation of alleged sexual violence, the Title IX Coordinator may issue a "No contact" order to insure the well-being of all parties and/or the integrity of the investigation process. Both the Complainant and the Respondent are expected to avoid all contact with each other while the report is under investigation.

"No contact" means no communication whatsoever including direct communication (talking, calling, texting, etc.), indirect communication (through friends or third parties), or contact through social media (Facebook, Twitter, etc.). The "No contact" order does not imply any wrongdoing. Violation of the "No contact" order, however, is considered a serious and potentially threatening breach of university policy and may result in immediate suspension.

### **Emergency Removal**

RVU can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with Campus Security and RVU Leadership using a standard objective violence risk assessment.

In all cases in which an emergency removal is imposed, the student or employee Respondent will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested within two days of notice, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. There is no appeal process for emergency removal decisions. A Respondent may

be accompanied by an Advisor of their choice when present for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

RVU will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student or employee from RVU's buildings including access to or use of facilities or equipment. At the discretion of the Title IX Coordinator, alternative coursework or work options may be pursued to ensure as minimal an academic impact as possible on the parties.

### **Role of Advisors and Attorneys in Both Informal and Formal Sexual Harassment Response Processes**

A Complainant or Respondent may choose to seek the advice and assistance of an attorney or any advisor at their own expense. An attorney or advisor may serve as a non-participating, support person but may not interfere with, pose or answer questions to the Title IX Coordinator during the investigation. Additionally, the University will not recognize or enforce agreements between the parties reached outside of these procedures.

Both the Complainant and the Respondent have the same opportunity to have others present during a meeting, hearing or proceeding regarding the allegation of sexual misconduct. If the complainant or respondent is unable to retain an advisor, RVU will provide an advisor at no expense; however, that does not mean an advisor will be an attorney.

### **Amnesty for Alcohol and/or Other Drugs**

Sometimes, a student or employee may be hesitant to come forward and file a sexual misconduct investigation request out of concern that the student or employee was using or was under the influence of alcohol or illegal drugs at the time of the alleged incident. However, the University's primary interest in such situations is in addressing alleged sexual violence. Illegal alcohol or drug use never makes a Complainant at fault for sexual violence against him or her. Other rules violations will be addressed separately from a sexual violence allegation.

## Requests for Investigations of Allegations of Sexual Misconduct

**Please note: Any formal complaint filed with allegations under Sexual Harassment, as defined above as Title IX Sexual Harassment, also adds a hearing procedure that must take place following an investigation unless an informal resolution can be reached. Please see the definitions under Section I in regard to complaints of Sexual Harassment as defined by Title IX Regulations. The process below is the same as for any allegations of Sexual Misconduct, except if defined under Title IX Sexual Harassment; the right to a hearing procedure with questioning by advisors is added.**

The following procedures apply to all Requests for Investigation alleging sexual misconduct that does not qualify under Title IX promulgated regulations. Under these procedures, individuals may submit Requests for Investigation regarding sexual misconduct allegedly committed by University students, employees, or other third parties which occur either inside of the school program or activity or outside of the school program but still under the control of RVU if the conduct negatively affects a Complainant's school experience, employment, or the overall school environment. However, the University's response to cases involving visitors, or third parties unaffiliated with the University will depend upon the University's degree of control over the visitor or third party.

The University will investigate all incidents of sexual misconduct of which it becomes aware (such as through a responsible employee or observation or other notification of misconduct), regardless of whether anyone files an informal or formal Request for Investigation. In such a circumstance, the University is the Reporting Party/Complainant. The University will elect how to proceed in such a situation, in accordance with its obligation to provide a safe, non-discriminatory educational environment under Title IX and applicable due process laws. At the conclusion of any process, the University will take steps to prevent recurrence of sexual misconduct and to correct its discriminatory effects on a Complainant, and others, if appropriate.

### **Evidence Standard for Determining Responsibility for Violations**

A **preponderance of the evidence standard** of review (meaning it is more likely than not that the sexual misconduct occurred) will be used in any investigations conducted and decisions made under these policies and procedures. The alleged victim or the University acting on behalf of the alleged victim of the sexual misconduct is described as the Complainant. The alleged offender is described as the Respondent. The Complainant has the option to inform the Respondent that his or her actions are offensive, unwelcome, or inappropriate, but is not required to do so, as this may negate the

reporting of possible offenses and place the Complainant in an uncomfortable, difficult, or fearful position.

The University's investigation process concerning allegations of sexual misconduct alleged to have occurred against a student or employee will be promptly completed, within a reasonable amount of time, and usually from 60-90 days of the University's first receiving notice of the Request for Investigation, absent extenuating circumstances, parallel criminal investigation, or the need for certain evidence or testimony unavailable within the typical timeframe. Both parties will be notified, in writing, of the evidence presented and outcome of any investigation report and be given the opportunity to review and comment on the evidence and/or report for up to 10 days following the notice.

Both parties will be promptly notified of any deviations from these time estimates, and the reasons for any deviation, as determined and approved by the Title IX Coordinator after considering the nature and seriousness of the allegations, and any extenuating circumstances. If the process lasts longer than 30 days, each party will be provided periodic status updates until the process is completed.

### **III. Processes for an Investigation of Sexual Misconduct**

The University provides three different processes, described below, for investigating and adjudicating Requests for Investigation of sexual misconduct allegedly committed. The first two options address Requests for Investigation alleging misconduct other than Title IX defined sexual harassment (of quid pro quo harassment by an employee, unwelcome conduct that is severe and pervasive and objectively offensive, and sexual violence including sexual assault, dating violence, domestic violence or stalking) and may be filed under an **Informal Conciliation Process** or a **Formal Investigation Process**. The third process is available only for Sexual Harassment as defined under Title IX: **The Title IX Sexual Harassment Process** (under section V of this policy). (The University highly recommends that the Complainant of sexual violence seek immediate medical attention after the incident, The Title IX Coordinator or Sexual Assault Advocate will provide, if needed, referrals to medical professionals.)

If the student or employee is unsure about the appropriate process for a Request for Investigation or unsure whether he/she should file a Request for Investigation, contact the Title IX Coordinator for an initial meeting, wherein the Title IX Coordinator will discuss the options and answer any questions. Copies of this Policy, processes, and forms are available from the Title IX Coordinator and on the RVU website at <http://www.rvu.edu/about/title-ix> .

1. **Informal Sexual Misconduct Conciliation Process.** The University offers an informal conciliation process as an alternative to the Formal Investigation Process for Requests for Investigation alleging sexual misconduct. Upon the filing of an Informal Request for Investigation, the Title IX Coordinator will attempt to intervene in order to reach a satisfactory resolution between the individuals directly involved. The informal proceeding focuses on conciliation rather than culpability and therefore may not involve a sanctioning process.

The Complainant and Respondent will be asked to resolve the problem with the mediation of the Title IX Coordinator or another University Official. This may include the services of the Office of Student Affairs and/or the Office of Human Resources. If informal attempts to resolve the Request for Investigation are unsuccessful, or if the Complainant or the Title IX Coordinator believes an informal procedure is inappropriate, the Formal Investigation Process can be utilized at any time. The filing of an Informal Sexual Harassment or Sexual Discrimination Request for Investigation is not a prerequisite to a Formal Sexual Harassment or Sexual Discrimination Request for Investigation.

- a. If a Complainant wishes to try informal resolution, she/he will be asked to file an *RVU Informal Sexual Misconduct or Sexual Discrimination Request for Investigation*. Upon receipt of this Request for Investigation, an attempt will be made to resolve the Request for Investigation by conciliation leading to informal mutual agreement.
- b. In order to conciliate an Informal Sexual Misconduct or Sexual Discrimination Request for Investigation, the Title IX Coordinator may meet with the parties and their respective advisers separately, together, or both, and may permit both parties to present evidence. The purpose of the meetings is to clarify issues and resolve the Request for Investigation.
- c. If conciliation resolves the Request for Investigation, a conciliation agreement, stipulating the terms of the resolution, will be signed by the Complainant and the Respondent. Each party will be simultaneously given a copy of the final signed agreement.
- d. If the conciliation process is not successful and the Complainant wishes to proceed with the Formal Investigation Process, the Complainant should follow the instructions set forth below.

The Complainant has a right to end the Informal Conciliation Process at any time and begin the Formal Investigation Process. Informal options will not be used to resolve Requests for Investigation concerning sexual violence allegedly committed by a University student or employee, which will be referred directly to the Title IX Sexual Harassment Response Process.



2. **Formal Sexual Misconduct Investigation Process.** If a Complainant wishes to invoke a formal administrative action regarding sexual misconduct, other than Title IX defined Sexual Harassment, an *RVU Formal Sexual Misconduct or Sexual Discrimination Request for Investigation* may be filed with the Title IX Coordinator.
- a. All Requests for Investigation will be acknowledged and promptly investigated and may include interviews with the Complainant, the Responding Party, and other persons (witnesses) believed to have knowledge relevant to the allegations.
  - b. Both the Complainant and Respondent may present evidence to the Title IX Coordinator.
    - i. Questioning or evidence about the Complainant's prior sexual conduct with anyone other than the Respondent is prohibited.
    - ii. Evidence of a prior consensual dating or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual misconduct.
  - c. Both the Complainant and Respondent will receive the Title IX Coordinator's report concurrently.
  - d. Upon the conclusion of the investigation of a formal Request for Investigation, a written investigative findings report and recommendation will be prepared by the Title IX Coordinator and submitted to the Associate Dean of Student Affairs (for students) or the Vice President of Human Resources (for employees). The Associate Dean of Student Affairs in consultation with the COM Dean or Program Director (for students), or the VP of Human Resources in consultation with the COM Dean or Program Director (for employees), will issue a final determination to the Complainant and Respondent and may do so through the Title IX Coordinator. The final decision may include sanctions or remedial measures if a violation of this Policy is found, such as a referral to the appropriate University administrative office for disciplinary action, including termination, suspension or dismissal.

### **In re: Submitting Requests for Investigation of Sexual Misconduct**

All Requests for Investigation alleging an incident of sexual misconduct committed by an employee or a student should be mailed, emailed, or hand delivered to:

- **The University's Title IX Coordinator:** Ms. Laura Dement, 720-874-2481, [ldement@rvu.edu](mailto:ldement@rvu.edu), Accounting and Finance Suite. The Title IX Coordinator is responsible for investigating all Requests for Investigation of sexual misconduct or sexual violence, and for identifying and addressing any patterns or systematic problems that arise during the review of such

complaints. The Title IX Coordinator is available to meet with University students or employees to discuss related issues, as needed.

If the Title IX Coordinator is not available, or there is a potential conflict of interest with the Title IX Coordinator, **students** may file informal and formal Requests for Investigation and should be mailed, emailed, or hand delivered to:

- **The Office of Student Affairs Associate Dean**

If the Title IX Coordinator is not available, or there is a potential conflict of interest with the Title IX Coordinator, **employees** may file informal and formal Requests for Investigation and should be mailed, emailed, or hand delivered to:

- **Vice President of Human Resources**

#### **IV. Appeals of Formal Sexual Misconduct Determinations**

Each party in a Formal Sexual Misconduct Investigation may appeal the findings or sanction(s) determined to the Title IX Coordinator by filing a written appeal with the University President within seven (7) days of the date of the decision. The opposing party then may respond to the appeal, in writing, within seven (7) days. Both the Complainant and Respondent may review the Title IX Coordinator's investigative report and any responses upon filing an appeal.

Appeals must meet the following criteria:

- An error in procedure, which allegedly prejudiced the process to the extent the participant was denied a fundamentally fair investigation as a result of the error. Only significant procedural errors that may have affected the decision or which relate to the sanction imposed will be considered.
- New evidence that was previously unknown and became available during the appeal process that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included with the notice of appeal.
- Sanctions imposed are not appropriate for the violation the individual(s) committed.
- Clearly demonstrated investigator bias.

All appeal documentation shall be directed to the Title IX Coordinator and the University President. The President will issue a written decision to both parties within fourteen (14) days of receiving the opposing party's response. There are no further appeal opportunities, and the President's decision shall be the final decision regarding the Sexual Misconduct Investigation and Findings.

## V. TITLE IX SEXUAL HARASSMENT GRIEVANCE PROCESS AND PROCEDURES

This process and procedures are specific to Title IX defined Sexual Harassment. Title IX Sexual Harassment is defined above in detail under definitions and includes:

- Quid Pro Quo harassment by a university employee (or)
- Unwelcome Conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational or employment access (or)
- Any instance of Sexual Assault (as defined in the CLERY Act), Dating Violence, Domestic Violence, or Stalking as defined in the Violence Against Women Act (VAWA).

The following is applicable once a Formal Complaint is filed under Title IX Sexual Harassment:

### **Investigation Phase**

1. Complainant and Respondent must be participating in, or attempting to participate in, an RVU educational program or activity.
2. Formal Complaint filed with the Title IX Coordinator and determination of whether an alleged violation may have occurred under Title IX definition of Sexual Harassment.
3. Alleged violation must have occurred within the United States, and within an RVU educational program or activity, which means locations, events, or circumstances over which RVU exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled that is officially recognized by RVU.
4. Supportive Measures may be put in place for the Complainant, and may include removal of the Respondent from the educational program or activity, on an emergency basis, after undertaking a safety and risk analysis and determining if an immediate threat to the physical health or safety of the complainant justifies removal.  
  
Respondent (student or employee) is to be given notice and has the opportunity to challenge a decision immediately following the removal by appealing to the Associate Dean of Student Affairs or the VP of Human Resources (respectively) in cooperation with the Title IX Coord.
5. Notice of Investigation will be sent, in writing to the Respondent, of the allegations of sexual harassment, as defined in Title IX § 106.30, including sufficient details known at the time and with sufficient time for the Respondent to prepare a response before any initial interview by the Title IX Coordinator.

It is to be stated that the respondent is presumed not responsible for the alleged conduct before a determination regarding responsibility is made at the conclusion of the grievance process.

6. Both the Complainant and the Respondent may have an Advisor of their choice, at their own cost (if applicable), who may be, but is not required to be, an attorney or advocate, and who

may attend their own party's interviews and inspect and review evidence of the alleged misconduct. The Advisor may not interfere with, pose or answer questions to the Title IX Coordinator during the investigation phase of the process. (Note: If a party does not have an Advisor for the Live Hearing phase of the process, RVU will provide, without fee or charge to the party, an Advisor of RVU's choice in order to conduct cross-examination on behalf of the party.)

7. The Title IX Coordinator or another trained investigator will conduct interviews separately with both the Complainant and Respondent and any witnesses named by either party. The interviews will take place without conflict of interest or bias against any party by the Title IX Coordinator. The Title IX Coordinator will objectively evaluate all relevant evidence – including both inculpatory and exculpatory evidence – and determine credibility without respect to a person's status as a complainant, respondent, or witness.
8. The Title IX Coordinator or another trained investigator will prepare a draft form of an investigative report that fairly summarizes all relevant evidence. Both parties and their advisors will be given up to 10 business days to review and submit a meaningful written response, which will be considered by the investigator prior to a final report.
9. A finalized investigative report in electronic format or hard copy will be provided to both parties and their advisors at least 10 business days prior to a scheduled Live Hearing. A finalized investigative report will also be provided to the Hearing Panel/Decision Maker at least 10 days prior to a scheduled Live Hearing.
10. Notice of the place, date and time for a Live Hearing will be provided to all parties at least 10 business days prior to the date of the Hearing.

### **Dismissal of a Formal Complaint of Sexual Harassment Under Title IX**

The following are defined under Title IX § 106.30 as reasons for dismissal of a formal complaint, and the Title IX Coordinator reserves the right to do so:

- If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in § 106.30 even if proved, or
- If the conduct did not occur in an RVU education program or activity, or
- If the conduct did not occur against a person within the United States, or
- If at the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in an RVU education program or activity.
- A Complainant notifies the Title IX Coordinator in writing that he/she would like to withdraw the formal complaint or any allegations therein, or
- The Respondent is no longer enrolled or employed by RVU, or

- Specific circumstances prevent RVU’s investigators from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

### **Live Hearing Phase**

Upon completion and delivery of the final investigative report to the parties, their advisors, and the hearing panel or a single decision-maker (herein the Decision-Maker(s), a hearing will be scheduled and communicated as to the place, date, and time of the hearing. The parties, their advisors, their witnesses, the Title IX Coordinator, and the decision-maker(s) will be present.

The following information outlines the procedures that will take place during the live hearing:

- At the request of either party, RVU must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions. Hearings may be conducted with all parties physically present in the same geographic location or, at RVU’s discretion, any or all parties, witnesses, and other participants may appear at a live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- At the live hearing, the decision-maker(s) must permit each party’s advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
- Only relevant cross- examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- If a party does not have an advisor present at the live hearing, RVU must provide, without fee or charge to that party, an advisor of RVU’s choice to conduct cross-examination on behalf of that party.
- 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.
- If a party or witness does not submit to cross-examination at the live hearing,

the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

- Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
- RVU will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

### **Determination Phase (Notice of Outcome)**

Once all the relevant questions and evidence have been presented at the hearing, the Decision-maker(s) will take reasonable time to consider the information gathered from both sides and make a determination (based on the preponderance of evidence standard) as to whether the Respondent violated Title IX protections and is responsible for Sexual Harassment as defined under Title IX. The Decision-maker(s) shall have up to 5 business days to make a determination and put it in writing. If it is determined the Respondent is responsible for misconduct under the definition of Title IX Sexual Harassment, the Decision-maker(s) will work with the Title IX Coordinator and either the Associate Dean of Student Affairs in regard to students, or the VP of Human Resources in regard to employees, in order to decide any disciplinary sanctions to be imposed on the Respondent. The Decision-maker(s), in cooperation with the Title IX Coordinator and the Associate Dean of Student Affairs or VP of Human Resources (respectively) will also decide whether additional remedies need to be designed to restore or preserve the Complainant's equal access to RVU's educational program or activities.

The written determination (titled as Notice of Outcome) shall be sent simultaneously to the parties along with information about how to file an appeal. The written determination will include:

- Identification of the allegations potentially constituting sexual harassment as defined in 34 CFR § 106.30 Definitions.
- 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 the application of Title IX defined Sexual Harassment to the facts
- A statement of, and rationale for, the result as to each allegation, including:
  - any disciplinary sanctions the recipient imposes on the respondent;

and

- whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant

The Title IX Coordinator is responsible for effective implementation of any remedies.

**Note: The Informal Conciliation Resolution Process that does not involve full investigation and a hearing may be requested by either party prior to reaching a determination of responsibility (except in cases of Quid Pro Quo Sexual Harassment by an employee). An informal conciliation has to be agreed upon by both parties. No waiver of rights to an investigation, hearing, and adjudication will be offered.**

### **Request for Appeal**

Any party may file a request for appeal, but it must be submitted in writing to the Title IX Coordinator within 5 days of the delivery of the Notice of Outcome.

A single Appeal Decision-maker will review the appeal. No Appeal Decision-maker will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal. This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

#### **A. Grounds for Appeal**

Appeals are limited to the following grounds:

- a. Procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- c. The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Decision-maker, and the parties and their Advisors will be notified in writing of the denial and the rationale.

The other party(ies) and their advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the request for appeal with the approved grounds and then be given 5 business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Appeal Decision-maker to all parties for review and comment.

The non-appealing party may also choose to raise a new ground for appeal at this time. If so, that will be reviewed for standing by the Appeal Decision-maker and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses within 5 business days, which will then be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and will render a decision in no more than 5 business days, barring exigent circumstances. All decisions are applied to the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, and any sanctions that may result which the Decision-maker is permitted to share according to state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' RVU-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

### **B. Sanctions Status During the Appeal**

Any sanctions imposed as a result of the Hearing are stayed during the appeal process. Supportive measures may continue or be reinstated, subject to the same supportive measure procedures above. If any of the sanctions are to be implemented immediately post-hearing, and any sanction involves emergency removal procedures, a hearing with the Appeal Decision-maker on the justification for doing so must be permitted within 48 hours of implementation.

RVU may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

### **C. Appeal Considerations**

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error, and to the sanction(s)/responsive action(s) only if



there is a compelling justification to do so.

- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding and/or sanction(s).
- The Appeal Decision-maker may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural or substantive error cannot be cured by the original Decision-maker(s) (as in cases of bias), the appeal may order a new hearing with a new Decision-maker(s).
- The results of a remand to a Hearing Decision-maker(s) cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in the Respondent's reinstatement or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

## **VI. Additional Information Applicable to This Policy**

### **False Reports/Allegations**

A false report or allegation of Sexual Misconduct occurs when the Reporting Party intentionally reports information or incidents that he or she knows to be untrue. Failure to prove a complaint of Sexual Misconduct is not equivalent to a false report or allegation. The University may impose sanctions against an individual who knowingly makes false allegations of Sexual Misconduct.

### **Records of Investigations and Decisions**

The record of the Complaint (Formal or Informal), the Investigation, any Audio or Audiovisual Recording, if any, Remedies provided to the Complainant, the Final Determination regarding responsibility, and any Appeals shall be retained in a confidential and secure file in the Title IX Office for a period of seven (7) years.

## **Audio/Video Recording of Proceedings**

Individuals involved in the investigative process are not permitted to audio or video record any investigation or resolution meetings or other portions of the process. RVU will video record any live hearing as per Title IX regulations.

## **Confidentiality Options for Reporting Parties**

The University recognizes that some alleged Reporting Parties of sexual violence may wish to remain anonymous or for the information they disclose to be confidential. Throughout the complaint procedures (whether formal or informal), the confidentiality of all participants will be maintained to the fullest extent possible. However, different individuals both on and off campus have different abilities to maintain a Reporting Party's confidentiality based upon applicable law, including Title IX.

The following options are designed to make students and employees aware of the disclosure options available to them, and the University encourages students to talk to someone in one or more of these groups. The University also reminds students and employees of its prohibition against retaliation located in this Policy, and if the student or employee is concerned about retaliation from the alleged Responding Party, the University will take steps to prevent retaliation and take strong responsive actions to retaliatory conduct.

- ***Professional and Pastoral Counselors:*** These professionals, including the University's clinical psychologists, are bound by professional ethics to not release information without the patient's permission, except in circumstances where the counselor or health care provider believes that there is a serious threat of imminent physical violence to a specific person or persons, or as otherwise required or permitted by applicable law.
- ***Responsible Employees of the University:*** Responsible employees of the University are obligated to report incidents of possible sexual violence or other sexual misconduct to school officials, including the Title IX Coordinator. A responsible employee is defined as a University employee who has the authority to redress sexual violence, who has been given the duty of reporting incidents of sexual violence or any other sexual misconduct to the Title IX Coordinator, or to who they could reasonably believe has this authority or duty. Therefore, reporting to a responsible employee is not confidential. Examples of responsible employees include, but are not limited to: Campus Safety and Security Officers, Faculty members, Human Resources representatives, and Student Affairs personnel.
- ***Anonymous Reporting for Alleged Sexual Violence:*** Reporting Parties of alleged sexual violence are permitted to submit an anonymous Request for Investigation or call the RVU

Anonymous Help/Tip Line by dialing 303-708-8185. The University may act then on behalf of the Reporting Party and act as Reporting Party on behalf of the Complainant. However, the Complainant must understand that remaining anonymous will impede the University's ability to investigate and respond to the complaint.

A Reporting Party of alleged sexual violence may ask that a Request for Investigation or report to a responsible employee be handled confidentially or that an investigation not be completed. In such a situation, the University must weigh the Complainant's request against the University's obligation to provide a safe, non-discriminatory environment for all of its students and employees. If the University honors the Complainant's request for confidentiality, they must understand that the University's ability to meaningfully conduct an investigation into the sexual misconduct will be impeded, including the ability to sanction the alleged Respondent. However, in some cases the University may not be able to honor a Complainant's request for confidentiality in order to provide a safe, non-discriminatory environment for all of its students and employees.

The Title IX Coordinator will evaluate requests for confidentiality in accordance with the following factors:

- The risk that the alleged Responding Party will commit additional acts of sexual misconduct;
- The severity of the sexual misconduct;
- Whether sexual violence or a weapon was involved;
- Whether the report reveals a pattern of perpetration at a given location or by or against a particular group;

If the University determines that it cannot maintain a Complainant's confidentiality, it will, to the extent possible, inform the Complainant prior to taking any action that would disclose their identity, and will, to the extent possible, only share information with people responsible for handling the University's investigation and response. The University may not require the Complainant requesting confidentiality to participate in the investigation.

Regardless of whether the University honors a request for confidentiality, the University will promptly take any possible steps to protect and assist the Complainant and/or prevent future sexual misconduct, such as increased monitoring or security at locations where reported sexual misconduct occurred and increased education and prevention efforts.

In cases involving Complainants who do not wish to pursue a Request for Investigation further, the University may conduct an investigation and take whatever remedial action may be possible and appropriate under the circumstances, consistent with guidance issued by the United States

Department of Education and the University's obligations to other members of the University community. Failure by a responsible employee to report an allegation or incident of sexual violence to the Title IX Coordinator may result in disciplinary action up to and including termination.

### **Prohibition of Retaliation**

The University prohibits retaliation against any employee or student who, in good faith, reports, rejects, protests, or complains about sexual misconduct. Retaliation is a violation of University policy. The University will not tolerate discrimination, recrimination, or reprisal against any employee or student who reports or participates under this policy in good faith in a related investigation or hearing.

Complaints of retaliation should be reported to the Title IX Coordinator listed above. Such complaints will be investigated and handled in a prompt and equitable manner by the Title IX Coordinator, in his or her discretion. Any individuals, including Reporting Parties and alleged Reporting Parties, who are determined to have made knowingly false statements during the course of a sexual misconduct investigation, may be subject to discipline, which may include termination or dismissal.

The Title IX Final Rule expressly prohibits retaliation.

- Charging an individual with code of conduct violations that do not involve sexual harassment, but arise out of the same facts or circumstances as a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation.
- RVU must keep confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.
- Complaints alleging retaliation may be filed according to RVU's prompt and equitable grievance procedures.
- The exercise of rights protected under the First Amendment does not constitute retaliation.
- Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

### **Disabilities Accommodation in the Resolution Process**

RVU is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the resolution process. Anyone needing such accommodations or support should contact the Director of Disability Services, who will

review the request and, in consultation with the person requesting the accommodation, and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

### **Timely Warnings**

Rocky Vista University is required by federal law to issue timely warnings for reported incidents that pose a substantial threat of bodily harm or danger to members of the campus community. Rocky Vista University will ensure, to every extent possible, that a victim's name and other identifying information is not disclosed, while still providing enough information for members of the campus community to make decisions to address their own safety in light of the potential danger.

### **Clery Report**

The federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires colleges and universities, both public and private, participating in federal student aid programs to disclose campus safety information, and imposes certain basic requirements for handling incidents of sexual violence and emergency situations. Disclosures about crime statistics and summaries of security policies are made once a year in the University's Annual Security Report (ASR), which can be viewed at: [http://www.rvu.edu/clery\\_act.asp](http://www.rvu.edu/clery_act.asp).

### **Training**

#### Training of Officials

The University officials who conduct the investigation and proceedings related to sexual misconduct are trained on an annual basis in order to protect the safety and due process of alleged victims and respondents. The investigation and any related process will be conducted impartially without any real or perceived conflicts of interest between the fact-finder or decision-maker and the parties. Any perceived conflicts will be fully disclosed at the beginning of the investigation. The precise investigation process and any other procedures will depend upon the nature of the allegations and other circumstances, but will afford both parties equal processes and procedures as described in this policy. In addition, training materials used for the education of the Title IX Coordinator, Investigators, and Hearing Panel and/or Decision Makers are posted on the Title IX web page on RVU's public website at: [www.rvu.edu/about/titleix](http://www.rvu.edu/about/titleix)

#### Training of Students and Employees

The University provides and requires annual training, including bystander intervention, awareness, and prevention programs, to educate all students and employees about the University's Sexual Misconduct Policy and their civil rights under Title IX.

## **VII. Resources for Student and Employee Victims of Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking**

For those who are victims of sexual assault, it is important to get immediate medical attention, even if there are no obvious physical injuries. Go to the emergency room of the nearest hospital. A physical examination will help to assure that any injuries will be identified and treated and that victims receive important information about the risks for sexually transmitted disease. An examination does not obligate a victim to any kind of investigation; however, it allows evidence to be obtained and preserved in the event a criminal investigation is authorized at a later time. Victims should not bathe, shower, douche, or change clothes before the examination. Individuals are also encouraged to seek counseling. Support by a trained counselor can help the individual understand and work through the trauma of the incident. Counselors can also help others who are close to the individual.

### **A. RVU Colorado Campus Resources**

Students or employees needing immediate and confidential medical assistance, treatment and other health services following an incidence of sexual assault, may contact the University's Health Clinic (on the RVU Colorado campus): 720-875-2880; [http://www.rvu.edu/dept\\_medclinic.asp](http://www.rvu.edu/dept_medclinic.asp). (If in Utah, see pp. 26-27)

### **CO Community Resources**

RVU students and staff, who are victims of sexual misconduct and assault, may also seek guidance and assistance from the following Denver-area resources and organizations. ([Utah campus resources available at Safety and Security Office and on pp. 26-27](#)) (Please note: these organizations are not affiliated with RVU.)

- The Blue Bench (formerly known as RAAP) (24/7) 303.322.7273 (ENG) 303.322.7273 (ESP) 1.888.394.8044 (TOLL FREE); <http://thebluebench.org/>
- Colorado Anti Violence Program (24/7 LGBT Resource) 303.852.5094; <http://coavp.org/>
- Denver Center for Crime Victims at 303-894-8000 (ENG) and 303.718.8289 (ESP) or 711 for Relay Colorado Access for deaf or hard of hearing. Translation and interpretation services available; <http://www.denvervictims.org/>
- Denver Police Non-Emergency at 720.913.2000
- Denver Police Victim Services at 720.913.6035
- (For licensed physicians, physician assistants, and Resident, Medical Students and Physician Assistant Students): Colorado Physician Health Program; 303-860-0122; [www.cphp.org](http://www.cphp.org).

### **Sexual Misconduct or Assault Complaints to Outside Agencies**

In addition to the University's complaint procedures, a Reporting Party or alleged Reporting Party

has the right to file a complaint of sexual misconduct or assault with local law enforcement agencies. As referenced elsewhere in this Policy, the involvement of outside law enforcement agencies may necessitate some accommodation in the timing and manner of the University's Title IX investigation so as not to impede such external proceedings.

However, the University will ensure that it takes appropriate interim measures to protect the Reporting Party in the educational setting as well as to follow through with its own Title IX mandated processes once it learns that the local law enforcement agencies have indicated that their proceedings will not be compromised by the resumption of the University's Title IX processes.

**Colorado** local law enforcement agencies to which complaints may be directed include:

- RVU Department of Public Safety and Security: 8401 S. Chambers Rd., Parker, CO 80134, Phone: 720-875-2892, Web: <http://www.rvu.edu/campus-life/campus-safety-and-security/>
- Parker Police Department: 18600 E. Lincoln Meadows Pkwy., Parker, CO 80134, Phone: (303) 841-9800, Web: <http://www.parkerpolice.org/>
- Colorado State Patrol – District 1: 4600 Castleton Court, Castle Rock 80109, Phone: (303) 688-3115, Web: <https://www.colorado.gov/pacific/csp/district-one-metro>

(See the following pages for Utah resources.)

Additionally, Employee and Student Reporting Parties may file complaints with the following organizations and agencies:

A. Employees

- Colorado Attorney General's Office: 1300 Broadway, 10th Floor, Denver, CO 80203, Phone: (720)508-6000, Web: <http://www.coloradoattorneygeneral.gov/>
- Equal Employment Opportunity Commission, Denver Field Office: 303 E. 17th Avenue, Suite 410, Denver, CO 80203, Phone: (303) 866-1085 or 1-800-669-6820, Fax: (303) 866-1085, Web: <http://www.eeoc.gov/field/denver/>
- <http://www.labor.state.ut.us>
- Colorado Civil Rights Commission: 1560 Broadway, Suite 1050, Denver, CO 80202, Phone: (303)894-2997, Fax: (303)894-7830, Email: [ccrd@dora.state.co.us](mailto:ccrd@dora.state.co.us)
- [https://laborcommission.utah.gov/divisions/AntidiscriminationAndLabor/employment\\_discrimination.html](https://laborcommission.utah.gov/divisions/AntidiscriminationAndLabor/employment_discrimination.html)

B. Students

- United States Department of Education: Office for Civil Rights, Cesar E. Chavez Memorial Building, 1244 Speer Boulevard, Suite 310, Denver, CO 80204, Telephone: (303) 844-5695, Facsimile: (303) 844-4303, Email: [OCR.Denver@ed.gov](mailto:OCR.Denver@ed.gov)

- Colorado Civil Rights Commission: 1560 Broadway, Suite 1050, Denver, CO 80202, Phone: (303)894-2997, Fax: (303)894-7830, Email: ccrd@dora.state.co.us
- <https://www.hhs.gov/ocr/about-us/contact-us/index.html> - Utah Office of Civil Rights
- American Osteopathic Association/Commission on Osteopathic College Accreditation (AOA/COCA): 142 E. Ontario St., Chicago, IL 60611-2864, Toll-free phone: (800) 621-1773, General phone: (312) 202-8000, Fax: (312) 202-8200, Web: www.osteopathic.org
- Higher Learning Commission (HLC): 230 South LaSalle Street, Suite 7-500, Chicago, Illinois, 60604-1411, Phone: (800)621-7440,

## B. IVINS, UTAH CAMPUS RESOURCES

### Resources for Victims of Sexual Assault, Domestic Violence, Dating Violence, or Stalking

#### ON-CAMPUS

Department of Public Safety and Security	255 E. Center St. Ivins, UT 84738	435-222-1300
Mental Health and Wellness Counselor, Kathy Killian-Harmon	255 E. Center St. Ivins, UT 84738	435-222-1257
Title IX Coordinator, Laura Dement	8401 S. Chambers Rd. Parker, CO 80134	720-874-2481
Student Affairs	255 E. Center St. Ivins, UT 84738	435-222-1270
Dean, Dr. David Park	255 E. Center St. Ivins, UT 84738	435-222-1238
Assistant Dean of Students, Dr. David Roos	255 E. Center St. Ivins, UT 84738	435-222-1252
Anonymous Tip Hotline	255 E. Center St. Ivins, UT 84738	435-222-1313

#### IN THE METRO SANTA CLARA-IVINS AREA

Santa Clara/Ivins Police Department	2603 Santa Clara Drive, Santa Clara, UT 84765	435-652-1122
Santa Clara/Ivins Fire Department	90 Center Street, Ivins, UT 84738	435-673-6712
Washington County Sheriff's Department	620 S 5300 W, Hurricane, UT 84737	435-656-6500



Washington County Justice Court	87 N 200 E #301, St. George, UT 84770	435-634-5728
Utah Highway Patrol	620 5300 W #216, Hurricane, UT 84737	435-634-2890

Dixie Regional Medical Center,	515 S 300 E, St. George, UT 84770	435-251-1000
Crisis Shelter – Dove Center	1240 E 100 S #221, St. George, UT 84790	435-628-1204
Victim / Court Advocates		435-627-4399
Utah Office for Victims of Crime		800-621-7444
24 Hr. Rape Crisis Hotline		888-421-1100

Other resources available to persons who report being the victim of sexual assault or domestic violence in Utah include:

- <https://intermountainhealthcare.org/locations/dixie-regional-medical-center/> - Suicide Crisis Line
- <https://dovecenter.org/> - Crisis Shelter – Dove Center
- [https://justice.utah.gov/Crime/cvr\\_grants.html](https://justice.utah.gov/Crime/cvr_grants.html) - Utah Office for Victims of Crime
- <https://www.hhs.gov/ocr/about-us/contact-us/index.html> - Utah Office of Civil Rights

### C. Billings, Montana Campus Resources

#### ON-CAMPUS

Campus Safety and Security	4130 Rocky Vista Way Billings, MT 59106	406-901-2722
Counseling Services	4130 Rocky Vista Way Billings, MT 59106	406-901-2708
Title IX Coordinator	8401 S. Chambers Rd. Parker, CO 80134	720-874-2481
Student Affairs Associate Dean	4130 Rocky Vista Way Billings, MT 59106	406-901-2708
Campus Dean	4130 Rocky Vista Way Billings, MT 59106	406-901-2709

Anonymous Tip Hotline	4130 Rocky Vista Way Billings, MT 59106	406-901-2723
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**IN THE METRO BILLINGS AREA**

Billings Police Department	220 N 27th St. Billings, MT 59101	406-657-8460
St. Vincent's Healthcare	1233 N 30th St, Billings, MT 59101	406-237-7000
Billings Clinic Hospital	2800 10th Ave N, Billings, MT 59101	406-238-2500
RiverStone Health Clinic	123 S. 27th St. Billings, MT 59101	406-247-3350
Community Crisis Center	704 N. 30th St. Billings, MT 59101	406-259-8800
The Phoenix Center	1500 University Drive (Second Floor of Petro Hall) Billings, MT 59101 Or 3803 Central Ave. (Second Floor of Tech Building) Billings, MT 59102	406-794-3829 (24-hour hotline)
Montana Rescue Mission Women & Children's Shelter	2520 1st Ave. North Billings, MT 59101	406-259-3105
Montana Rescue Mission Men's Shelter	2822 Minnesota Ave. Billings, MT 59101	406-259-6079

Other resources available to persons who report being the victim of sexual assault or domestic violence include:

<https://www.angelaspiazza.org/> - Angela's Piazza: Women's Drop-In Center

<https://www.ywcabillings.org/> - YWCA in Billings, MT

<https://victimsofcrime.org/> - National Center for Victims of Crime

<https://www.thehotline.org/> - National Domestic Violence Hotline

<https://rainn.org/> - Rape, Abuse, & Incest National Network

## Appendix A

### Sexual Misconduct/Sexual Discrimination Complaint Form

Rocky Vista University is committed to ensuring a safe learning environment that supports the dignity of all members of RVU and its community. RVU does not discriminate on the basis of sex or gender identity in any of its education or employment programs and activities in compliance with Title IX of the Education Amendments Act of 1972. Completing this form is a method of reporting any alleged conduct directed against a student or employee that may be a violation of Title IX and/or RVU's Sexual Misconduct Policy. Title IX and the Sexual Misconduct Policy also prohibit retaliation for reporting sexual misconduct or participating in an investigation of sexual misconduct. Please review RVU's Sexual Misconduct and Non Discrimination Policy, Reporting, Investigating, and Hearing Procedures before submission of this form at: [www.rvu.edu/about/titleix](http://www.rvu.edu/about/titleix)

**Anonymity:** This complaint form may be submitted anonymously. The reporter is encouraged to provide any information related to the report in order to facilitate an investigation into the reported conduct. Legal and regulatory obligations may require the University to take some action once it is informed that sexual misconduct may be occurring. Not having the identity of the complainant may limit the ability to respond fully to the incident and may limit the ability to discipline the respondent.

I WISH TO REMAIN ANONYMOUS.

**Confidentiality:** Legal and regulatory obligations may require the university to take some action once it is informed that sexual misconduct may be occurring. Although the confidentiality of the information received and the privacy of the individuals involved cannot be guaranteed, confidentiality and privacy will be protected to as great an extent as is possible. The expressed wishes of the complainant regarding confidentiality will be considered in the context of the university's legal obligation to act upon the charge and the right of the charged party to be informed concerning the charge. Honoring the request may limit the ability to respond fully to the incident and may limit the ability to discipline the respondent.

Complainant's Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_

I request this report and my identity to remain confidential. I understand that the confidentiality of all participants will be maintained to the fullest extent possible, but University must weigh this request against its obligation to provide a safe, non-discriminatory environment for all of its students and employees, and will evaluate my request in accordance with the University's Sexual Misconduct Policy and Investigation Procedures.

\*Please note that if you fail to provide identifying information about yourself, the University's investigation and response may be impeded.

Respondent's (Accused) Name: \_\_\_\_\_

Phone and/or Email (if known): \_\_\_\_\_

Date(s) of Alleged Violation(s): \_\_\_\_\_

Description of Incident(s): *(please use size 12 font – text box will expand)*

Witness(es) to Incident: (include name, phone, email if possible)

Please include any other information and/or evidence that can be helpful if it is decided an investigation needs to take place.

**I Understand an Investigation Can Take Place by the Title IX Coordinator Under These Options:**

- **RVU Sexual Misconduct Formal Complaint Process (Non-Title IX Jurisdiction) – No Hearing or Cross-Examination But Includes Findings and Recommendations For Violations and Sanctions (or)**
- **RVU Title IX Sexual Harassment Grievance Process and Procedures (cannot be anonymous) – Must Include Hearing and Cross-Examination and a Decision Made by a Hearing Chair (or)**
- **RVU Informal Conciliation/Resolution Process Agreed Upon by Parties (or)**
- **Supportive Measures Only At This Time, But I Do Not Waive My Right to a Grievance Process Later**

**PLEASE SIGN AND AN INTAKE AND CONSULTATION WILL TAKE PLACE WITH THE TIX COORDINATOR TO DETERMINE WHICH OF THE ABOVE APPLIES**

\_\_\_\_\_  
*Complainant Signature*

\_\_\_\_\_  
*Date*

**To be Filed with:**

- RVU Title IX Coordinator, Laura Dement, 720-874-2481, [ldement@rvu.edu](mailto:ldement@rvu.edu)

**If the Title IX Coordinator is not available, or there is a potential conflict of interest with the Title IX Coordinator:**

- Complaints from Students, Associate Dean for Student Affairs
- Complaints from Employees, VP of Human Resources

**Title IX Coordinator's Signature (After Intake)**

Date: