



ROCKY MOUNTAIN COLLEGE

Sexual Misconduct and Sexual Assault

Updated January 2019

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Summary This document outlines Rocky Mountain College's policies and procedures regarding sexual misconduct and sexual assault.

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1. POLICY STATEMENT

Sexual misconduct, sexual assault, stalking, and dating/domestic violence are unacceptable and will not be tolerated at Rocky Mountain College. The College urges an individual who has been subjected to sexual misconduct, sexual assault, stalking or dating/domestic violence to make a formal complaint. A report of the matter will be dealt with promptly and confidentiality will be maintained to the extent possible. The College is committed to providing information regarding on- and off-campus services and resources to all parties involved. Students, faculty and staff found in violation of this policy will be subject to discipline up to and including termination, expulsion or other appropriate institutional sanctions; affiliates and program participants may be removed from College programs and/or prevented from returning to campus.

2. SCOPE OF POLICY

This Policy prohibits all forms of sexual assault, sexual misconduct, relationship violence and stalking. The Policy applies to all members of the College community, including students, faculty, staff, administrators, board members, consultants, vendors, visitors, and others engaged in business with the College. This Policy applies to conduct on or off campus property that substantially interferes with the mission of the College including but not limited to, interference with the safety and well-being of self or others and/or interference with the academic pursuits or employment environment of its students, faculty, or staff. Allegations of Sexual Harassment that are not specifically prohibited by this Policy will be addressed according to the RMC Sexual Harassment Policy.

3. DEFINITIONS

- a. **What is sexual misconduct?** Sexual misconduct is the commission of an unwanted sexual act, whether by an acquaintance or by a stranger, that occurs without consent.
- b. **What is sexual assault?** Sexual assault is the actual, attempted or threatened unwanted sexual act, whether by an acquaintance or by a stranger, accomplished (1) without consent by means

of force (express or implied), violence, duress, menace, fear or fraud, or (2) when a person is incapacitated or unaware of the nature of the act, due to unconsciousness, sleep and/or intoxicating substances.

- c. **What is stalking?** Stalking is criminal activity consisting of the repeated following and/or harassing of another person. Stalking is a distinctive form of criminal activity composed of a series of actions that taken individually might constitute legal behavior. For example, sending flowers, writing love notes, and waiting for someone outside her or his place of work are actions that, on their own, are not criminal. When these actions are coupled with an intent to instill fear or injury, however, they may constitute a pattern of behavior that is illegal.
- d. **What is sexual harassment?** Any unwelcome conduct of a sexual nature where: a. Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation in any College program and/or activity, or is used as the basis for College decisions affecting the individual (often referred to as "quid pro quo" harassment); or b. Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the College's education or employment programs and/or activities. The existence of a hostile environment is to be judged both objectively (meaning a reasonable person would find the environment hostile) and subjectively (meaning the impacted individual felt the environment was hostile).
- e. **What is Dating/Domestic Violence?** Dating/Domestic violence and emotional abuse are behaviors used by one person in a relationship to control the other. Partners may be married or not married; heterosexual, gay, or lesbian; living together, separated or dating. Violence can be criminal and includes physical assault (hitting, pushing, shoving, etc.), sexual abuse (unwanted or forced sexual activity), and stalking. Although emotional, psychological and financial abuses are not criminal behaviors, they are forms of abuse and can lead to criminal violence.
- f. **What is consent?** Consent is informed, freely given, and mutually understood. Consent requires an affirmative statement by each participant. If coercion, intimidation, threats and/or physical force are used, there is no consent. If a person is mentally or physically incapacitated or impaired so that the person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption or being asleep or unconscious. Whether one has taken advantage of a position of influence over another may be a factor in determining consent.

Guidance for consent:

- i. One is expected to obtain consent to each act of sexual activity prior to initiating such activity. Consent to one form of sexual activity does not constitute consent to engage in other forms of sexual activity.
- ii. Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of resistance, or lack of an active response alone. A person who

does not physically resist or verbally refuse sexual activity is not necessarily giving consent.

iii. When consent is requested verbally, absence of any explicit verbal response constitutes lack of consent. A verbal “no” constitutes lack of consent, even if it sounds insincere or indecisive.

iv. If at any time during the sexual activity, any confusion or ambiguity arises as to the willingness of the other individual to proceed, both parties should stop and clarify verbally the other’s willingness to continue before continuing such activity.

v. Either party may withdraw consent at any time. Withdrawal of consent should be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.

vi. Individuals with a previous or current sexual relationship do not automatically give either initial or continued consent to sexual activity. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity.

vii. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another.

viii. Consent is not valid if it results from the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual’s ability to exercise his or her own free will to choose whether or not to have sexual contact. It is a violation of the Sexual Harassment Complaint Procedures if faculty members, coaches, advisors, or other staff members become involved in amorous or sexual relationships with students who are enrolled in their classes or subject to their supervision, even when both parties appear to have consented to the relationship. Likewise, it is a violation for a supervisor and a directly reporting employee to have a consensual amorous or sexual relationship with each other.

ix. A person’s manner of dress does not constitute consent.

x. An individual who is incapacitated from alcohol or other drug consumption (voluntarily or involuntarily) or is asleep, unconscious, unaware, or otherwise physically helpless is considered unable to give consent.

xi. In the State of Montana, persons under the age of 17 cannot legally consent to sexual activity. Thus, in Montana, any sexual activity with persons under the age of 17 could constitute sexual assault of a minor, and implicate mandatory child abuse reporting.

- g. Retaliation** It is a violation of College policy to retaliate against any person making a complaint of sexual misconduct or sexual assault, or against any person cooperating in the investigation of (including testifying as a witness to) any allegation of sexual misconduct or sexual assault. For students, retaliation should be reported promptly to the Vice President for Student Life, or Residence Life administrator (RA, Area Coordinator, or Director). For faculty and staff, retaliation should be reported to the Human Resources Office.

4. CONFIDENTIALITY OF INFORMATION

The College will make reasonable and appropriate efforts to preserve an individual’s privacy and protect the confidentiality of information (even in instance where confidentiality has not been specifically requested). However, because of laws relating to reporting and other state and federal laws, the College

cannot guarantee confidentiality to those who report incidents of sexual violence, except where those reports are privileged communications with those in legally protected roles (set forth below). The professional being consulted should, if possible, make these limits clear before any disclosure of facts.

An individual can speak confidentially with certain individuals in legally protected roles. They include the student health center, campus counselor and chaplain. Exceptions to maintaining confidentiality are set by law; for example, physicians and nurses who treat any physical injury sustained during a sexual assault are required to report it to law enforcement. Also, physicians, nurses, psychologists, psychiatrists, teachers and social workers must report a sexual assault committed against a person under age 18.

Information shared with other individuals is not legally protected from being disclosed. Considerations with respect to a complainant's request for confidentiality include factors such as the College's ability to respond effectively, to prevent further harassment or to ensure the safety of the College community. For example, a faculty advisor, an Area Coordinator or a Resident Assistant (RA) may need to inform other individuals to protect their safety or rights, in fairness to the persons involved, or in response to legal requirements. The College's Title IX Coordinator or Title IX Deputy Coordinator is ultimately responsible for determining what information should be disclosed and to which entity.

As required by law, all disclosures to any College employee of an on-campus sexual assault must be reported for statistical purposes only (without personal identifiers) to the Rocky Mountain College Campus Safety Office, which has the responsibility for tabulating and annually publishing sexual assault and other crime statistics. Such reports are for statistical purposes and do not include individual identities.

State law permits law enforcement authorities to keep confidential the identity of a person officially reporting a sexual assault. The Rocky Mountain College Campus Safety Office policy is to maintain such confidentiality. However, if the City Attorney files a criminal charge, confidentiality may not be maintained. If a complaint is filed through the Student Conduct system, then the accused student must be provided with the name of the alleged victim and witnesses, if applicable.

5. EDUCATION AND PREVENTION

Rocky Mountain College provides resources for education about and prevention of sexual misconduct and assault. Students, faculty and staff are urged to take advantage of on-campus prevention and educational resources (both College-supported and student-led) and are encouraged to participate actively in prevention and risk reduction efforts. The Campus Safety and Residence Life Offices provide comprehensive educational programming designed to promote campus safety, wellness and address sexual and relationship violence to the campus community.

The following link to the Rape Abuse and Incest National Network (RAINN) contains recommendations on ways to reduce the risk of sexual assault including, avoiding dangerous situations, personal safety planning, dealing with pressure, computer safety and tips for "what men can do."

<https://www.rainn.org/get-information/sexual-assault-prevention>

Rocky Mountain College provides case consultation to students and staff, case management for reported assaults, and provides information and referrals to services on and off campus. The College also assists with educational outreach and training to increase awareness, sensitivity and community

accountability in the prevention of these acts. The Human Resources Department provides training programs regarding sexual harassment for the campus community. Some programs are required for faculty, staff supervisors, instructors and newly hired staff. Information is available by contacting the Human Resources Office at (406) 657-1043. The Rocky Mountain College Department of Residence Life and the Campus Safety Office conducts educational programs and distributes educational literature to students, faculty and staff.

6. RESOURCES FOLLOWING AN ACT OF SEXUAL MISCONDUCT OR SEXUAL ASSAULT

Whether a victim of sexual misconduct or sexual assault chooses to make a formal complaint, he or she is urged to seek appropriate help. There are numerous resources available to faculty, staff, student and visitors to campus (see list below). Specific resources, either on or off campus, for medical treatment, legal evidence collection, obtaining information, support and counseling and officially reporting a sexual misconduct or sexual assault are listed below. Each resource can assist a person to access the full range of services available.

a. Services Available 24 Hours a Day

Emergency medical and police services, call 911 (or 8-911 from campus). Individuals may also go to the nearest hospital emergency department (Saint Vincent's Hospital or Billings Clinic).

The YWCA Gateway House in Billings has a 24-hour telephone line at (406) 259-8100.

Sexual Assault Services (formerly Rape Task Force), (406) 259-8100.

Billings Community Crisis Center, (406) 259-8800.

RMC students may contact an RA and request that the on-call Senior Staff be contacted.

b. Medical Treatment — An individual who has been sexually assaulted is urged to seek appropriate medical evaluation as promptly as possible.

- i. For life-threatening conditions, call 911 (or from a campus phone, call 8-911).
- ii. For treatment of less serious injuries, students can use the Rocky Mountain College Health Center (406) 657-1068 or the nearest hospital emergency department (Saint Vincent's Hospital or Billings Clinic). Faculty and staff should consult their primary care physician.
- iii. For evaluation and prevention of sexually transmitted diseases and pregnancy, as well as consultation for other health issues, students can use the Rocky Mountain College Health Center. Faculty and staff should consult their primary care physician.

c. Medical-Legal Evidence Collection — An individual who has been sexually assaulted is encouraged to request collection of medical-legal evidence. Prompt collection of physical evidence is essential should a person later decide to pursue criminal prosecution and/or a civil action (see 7.d., Legal Options).

Federal law provides for free medical-legal exams to victims of sexual assault. See the Violence Against Women Act of 2005 42 U.S.C. § 3796gg-4(d). For assistance in seeking such an exam, contact the YWCA (406) 259-8100, or Billings Police Department (406) 657-8460. RMC community members are strongly urged to contact the YWCA as early as possible because it provides immediate support and advocacy

and will coordinate services with other agencies if requested. The YWCA Sexual Violence Victims Services 24-hour telephone line is (406) 259-8100. An individual seeking an exam is encouraged to request police escort to the St. Vincent Hospital or Billings Clinic Emergency Department.

Please note that St. Vincent Hospital and Billings Clinic are mandated assault reporters under state law and may have legal obligations to provide a report of an assault to a police agency.

d. Obtaining Information, Support and Counseling — Whether one chooses to make a formal complaint, an individual who has suffered an act of sexual misconduct or sexual assault is encouraged to obtain information, support and counseling. Counselors at a variety of agencies, both on and off campus, can help that person decide what steps to take, such as seeking medical attention, preserving evidence, obtaining counseling or reporting to authorities. Information, support and advice are available (see resources below) for anyone in the RMC community who wishes to discuss issues related to sexual misconduct or sexual assault, whether sexual misconduct or sexual assault has actually occurred and whether the person seeking information has been assaulted, has been accused of sexual misconduct or sexual assault, or is a third party. The degree to which confidentiality can be protected depends upon the professional role of the person being consulted and should be addressed with that person before specific facts are disclosed, if possible (see section 4, Confidentiality of Information).

Students may consult:

YWCA Gateway House—(406) 259-8100

Campus Counselor—(406) 657-1049

RMC Health Center—(406) 657-1068

Campus Chaplain—(406) 657-1098

Campus Safety Office—(406) 238-7293

Vice President for Student Life—(406) 657-1018

e. Title IX Coordinators -- The College's Title IX Coordinators regularly participate in training specifically for Title IX coordinators, and share the information with campus administrators, staff and faculty. They are knowledgeable of federal and state laws (e.g. ADA, Section 504, IDEA) prohibiting discrimination against all protected classes (including race, religion and sexual orientation) and assist whenever possible. Coordinators have a working knowledge of the federal Title IX (of the Education Amendments of 1972) law and its implementation regulations. In addition, Coordinators have a copy of Title IX regulations readily available and understand the requirements and the intent of the law; they keep informed of current research and legal and judicial decisions related to Title IX and gender equity; and, provide program development, including in-service training, to eliminate sex discrimination on campus.

Title IX coordinators oversee all Title IX complaints; they will identify and address any patterns or systemic problems that arise during the review of such complaints; and, assist in answering any other questions related to these policies and procedures.

f. Officially Reporting an act of Sexual Misconduct or Sexual Assault — A member of the College community who has suffered an act of sexual misconduct or sexual assault is encouraged to make a formal complaint as soon as possible, whether he/she intends, at that time, to seek criminal or civil redress or pursue internal disciplinary measures. Even when a victim of sexual misconduct or sexual assault is not willing to bring forward a disciplinary case, a victim may benefit from appropriate academic and housing accommodations from the College through Residence Life staff or the Campus Safety Office.

For a sexual assault that occurs on the campus, contact the Residence Life Staff (RA, Area Coordinator, Director of Residence Life), (406) 657-1051 or Campus Safety Office, (406) 238-7293. In addition, victims of sexual misconduct or sexual assault are encouraged to contact local law enforcement officials by calling 911 or (406) 657-8460.

For an off-campus incident, call the police, call 911 or (406) 657-8460. If the accused is a Rocky Mountain College student, students should contact the Vice President for Student Life at (406) 657-1018 or the Campus Safety Office at (406) 238-7293.

Faculty and staff should contact the Human Resources Office, (406) 657-1160.

Upon request, College personnel will assist students to notify campus and law enforcement authorities of any incident of sexual misconduct or sexual assault.

g. Anonymous and third-party reporting -- Where a complainant requests to remain anonymous or that no formal action be taken, the College must balance this with its obligations to provide a safe and non-discriminatory environment for all community members and to afford a respondent fundamental fairness by providing notice and an opportunity to respond before any action is taken against a respondent. In the event that the circumstances of the complaint dictate a full investigation, the College will take all actions necessary to conduct the investigation while balancing the wishes of the complainant. This may include disclosing the identity of the complainant and other steps that might compromise the complainant's request for confidentiality and anonymity. Subject to these limitations, the College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. The College shall inform the complainant that its ability to investigate or take action will be limited based on the nature of the request by the complainant.

If the individual decides not to file a complaint with the College, the College encourages the individual to seek out the available medical and mental health resources listed in section 6d of this policy, "Obtaining Information, Support and Counseling." Individuals who wish to make a complaint at a later date may contact any of the Title IX Coordinators at any time. Please note that a delay in reporting could affect the College's ability to gather information and evidence to determine whether a person is responsible for sexual misconduct.

Reports that are made anonymously or by third parties may not initiate the formal complaint process. However, Title IX requires the College to investigate all incidents about which the College knows or has reason to know in order to protect the health and safety of the College community. The College may undertake an initial assessment even in cases where the alleged victim and/or complainant choose not to cooperate or participate. As necessary, the College reserves the right to initiate a complaint, to serve as complainant, and to initiate conduct proceedings without a formal complaint by the victim or complainant.

7. POLICY ENFORCEMENT

This policy was authorized and approved by the President of Rocky Mountain College and is enforced under the authority of the Vice President for Student Life. In addition to institutional consequences, an individual who violates this policy may be subject to criminal prosecution and/or civil litigation. For all complaints of alleged sexual misconduct or sexual assault, regardless of what type of resolution the

complainant wishes to pursue, the College may, in its discretion, undertake appropriate inquiry and take such prompt and effective action as is reasonably practicable under the circumstances to support and protect the complainant. Including, but not limited to, taking appropriate interim measures (such as removing or banning an alleged assailant from campus, no contact and protective orders, and academic schedule and housing accommodations; as requested and available) before the final outcome of the investigation and/or hearing, if any.

a. Disciplinary and Other Administrative Actions for Students —An act of sexual misconduct or sexual assault is a violation of the fundamental standard governing student behavior. The process and procedures governing student disciplinary cases involving sexual misconduct and sexual assault are found on the Student Conduct website, <https://www.rocky.edu/campus-life/student-life-offices/student-conduct-policies/student-conduct-programs>.

The Office of Student Life (406) 657-1018 investigates all formal complaints of student misconduct, including allegations of sexual misconduct and sexual assault, and initiates formal disciplinary procedures if the evidence supports the allegation. Sanctions may include, but are not limited to, an oral reprimand, a written reprimand, a warning added to the respondent's file or the probation, suspension or expulsion of a student. Mediation between parties is not available in cases of sexual assault or misconduct.

Rocky Mountain College processes guarantee that the rights of students, including those of the respondent, are protected. The College will maintain the confidentiality of students involved in disciplinary cases; in situations involving an allegation of sexual misconduct and/or sexual assault; however, the reporting individual and the respondent student may each choose to be accompanied by a person of his or her choice at all stages of the disciplinary process. Each student will be kept informed of the status of an investigation and its outcome. For more information go to <https://www.rocky.edu/campus-life/student-life-offices/student-conduct-policies/student-conduct-programs>.

b. Disciplinary Action for Faculty and Staff — Violations of this policy are addressed according to applicable faculty and staff personnel policies. When violations are found, possible sanctions range from censure to dismissal from the College.

c. When Complainant does not want to pursue resolution or requests confidentiality -- If a complainant does not want to pursue a formal resolution or requests that the complaint be kept confidential, Title IX requires the College to investigate and take reasonable action in response to the complainant's information. The complainant will be informed that the College's ability to respond may be limited if confidentiality is requested. The College may conduct a preliminary investigation into the alleged misconduct or assault and weigh the request for confidentiality against the following factors: the seriousness of the alleged misconduct, whether there have been other complaints against the same respondent and the respondent's right to receive information about the allegations.

d. Legal Options — In addition to College disciplinary actions, a person who engages in a sexual assault may be the subject of criminal prosecution and/or civil litigation. A police report must be made before a criminal prosecution can be considered by the City Attorney's Office. The chances of successful prosecution are greater if the report to the police is timely and is supported by the collection of medical-legal evidence (see 6.c., Medical Legal Evidence Collection). Because the standards for finding a violation

of criminal law are different from the standards for finding a violation of the Sexual Misconduct and Sexual Assault Policy, criminal investigations or reports are not determinative of whether sexual misconduct or sexual assault, for purposes of this policy, has occurred. Conduct may constitute sexual misconduct under this policy even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to prosecute. Moreover, the filing of a complaint of sexual misconduct or sexual assault with the College is independent of any criminal investigation or proceeding. The College will not wait for the conclusion of any criminal investigation proceeding to commence its own investigation and/or to take interim measures to protect the complainant and College community.

Victims are not required to file a report with local law enforcement authorities.

A person who wishes specific information about legal options should consult a private attorney or the YWCA Sexual Violence Victims Services program, (406) 259-8100.

8. INSTITUTIONAL RESPONSES

a. Public Information — Requests for information concerning an incident of sexual misconduct or sexual assault should be directed to the Rocky Mountain College Communications Department (406) 657-1104 or the Rocky Mountain College Campus Safety Office (406) 238-7293.

b. Public Notification of Incidents — As required by state and federal law, the Rocky Mountain College Campus Safety Office must collect and report annual statistical information concerning sexual assaults occurring on campus. To promote public safety, the Campus Safety Office also alerts the campus community to incidents and trends of immediate concern.

9. SEXUAL MISCONDUCT/ASSAULT PANEL

a. General Policies -- Sexual misconduct and sexual assault are unacceptable and will not be tolerated at Rocky Mountain College. The College urges an individual who has been subjected to sexual misconduct or sexual assault to make a formal complaint. A report of the matter will be dealt with promptly. Confidentiality will be maintained to the extent possible. The College is committed to providing information regarding on- and off-campus services and resources to all parties involved. Students, faculty and staff found to be in violation of this policy will be subject to discipline up to and including termination, expulsion or other appropriate institutional sanctions; affiliates and program participants may be removed from College programs and/or prevented from returning to campus.

All formal complaints alleging sexual misconduct and/or assault will be referred to the Sexual Misconduct/Assault Panel for adjudication.

Any student who has a question or concern that he or she is being or has been a victim of sexual misconduct or sexual assault should contact the Title IX Coordinator (406) 657-1018 or one of the liaisons listed below. The liaisons can assist in determining an appropriate response to an alleged incident.

Title IX Coordinator, Brad Nason (406) 657-1018
Deputy Title IX Coordinator, Shaydean Saye (406) 657-1051
Deputy Title IX Coordinator, Marcy Buster. (406) 657-1043
Campus Counselor (406) 657-1049
RMC Chaplain.....(406) 657-1098
Office of Human Resources (406) 657-1043

b. Resources and Interim Measures -- Upon receipt of a report, and throughout the investigation and appeal process, the College will implement reasonable and appropriate interim measures designed to eliminate the reported hostile environment and protect all parties involved. The College will maintain consistent contact with the parties to ensure that all reasonable safety and emotional and physical well-being concerns are being addressed and will review any measures to ensure on-going effectiveness and necessity. Measures may be imposed regardless of whether formal disciplinary action is sought by the Complainant or the College in order to ensure the preservation of the Complainant's educational or employment experience and the overall College environment.

A Complainant or Respondent may request separation or other protection, or the College may choose to impose interim measures without a request, to ensure the safety of all parties, the broader College community, and/or the integrity of the investigative and/or resolution process. The College will take immediate and responsive action to enforce a previously implemented measure and disciplinary sanctions can be imposed for failing to abide by a College-imposed measure.

Range of Measures

The College will implement appropriate and reasonable interim measures. Potential measures, which may be applied to the Complainant and/or the Respondent to the extent reasonably available and warranted by the circumstances, include:

- a. Access to counseling services and assistance in setting up initial appointment, both on and off campus
- b. Imposition of an on-campus "no-contact directive"
- c. Rescheduling of exams and assignments
- d. Providing alternative course completion options
- e. Change in class schedule, including the ability to transfer course sections or withdraw from a course without penalty
- f. Change in work schedule or job assignment
- g. Change in student's College controlled housing
- h. Limit of an individual's or organization's access to certain College facilities, including dining facilities, or activities, pending resolution of the matter
- i. Voluntary leave of absence
- j. Providing an escort and needed transportation to ensure safe movement between classes and activities
- k. Uphold no contact orders or orders of protection issued by other bodies
- l. Providing academic support services, such as tutoring
- m. College-imposed administrative leave or separation
- n. Interim suspension
- o. Any other remedy which can be tailored to the involved individuals to achieve the goals of this Policy.

c. Student Complaint Resolution Procedure

The following represents the procedure for resolving incidents where sexual misconduct and/or assault has been alleged.

d. Formal Complaint

1. Students may bring formal complaints to the Title IX Coordinator or Title IX Deputy Coordinator(s).

2. The complainant may have another person present information at discussions of the complaint (see section c).
3. After discussion with the Title IX Coordinator, two official investigative officers will be appointed to formally review the complaint. The complainant submits a signed complaint describing the incident and requesting a formal investigation. In some cases it may be appropriate for the designated officers to draft the complaint.
4. The complaint will be shown to the respondent, who may then file a written response within five (5) business days.

The proceedings described here are not those of a court of law and the participation of legal counsel is not permitted during these discussions.

e. The Formal Complaint Process

The timetable set forth below is approximate. The Title IX Coordinator, in consultation with the investigative officers may, at his or her discretion, allow additional time for any of the steps noted.

1. Within three (3) business days of receiving the written complaint, the investigative officers will consult with the relevant parties, including the complainant and the respondent, in order to ascertain the facts and views of both parties.
2. In order to protect the safety and welfare of both parties, it may be necessary to implement restrictions and/or behavioral expectations on individuals during the investigative and hearing process (please see section 9.c). Restrictions will be outlined, in writing, to each party immediately following the initial consultations.
3. When a formal complaint is received, the Title IX Coordinator will convene the Sexual Misconduct/Assault Panel—a three-person panel composed of members of the faculty and/or administrative staff. All members of the Sexual Misconduct/Assault Panel have received formal adjudicatory training as well as training relative to the issues of sexual harassment, misconduct and assault.
4. Within fourteen (14) business days from the filing of the complaint, the investigative officers will conduct an inquiry and prepare a report summarizing the relevant evidence. Note: hearsay evidence related by a witness that is not based on first-hand information will be identified as such.
5. The report of the investigative officers will be made available to the complainant and to the respondent by the investigators. Within five (5) business days thereafter, the complainant and the respondent may each submit a final statement to the Title IX Coordinator concerning the report.
6. The Title IX Coordinator, in consultation with the Sexual Misconduct/Assault Panel, may at any point dismiss a complaint if it is found to be clearly without merit. The complainant may appeal this determination to the Provost.
7. Within five (5) business days after the submission of any final statements from the complainant and the respondent, the Sexual Misconduct/Assault Panel will decide whether a violation of this policy has occurred, and if so, what the consequences shall be. These may range from reprimand, suspension or probation, to a recommendation of termination or expulsion.
8. Complaint procedures will be conducted by officials who do not have a conflict of interest or bias for or against the complainant or respondent.
 - i. Either party may raise a challenge to the designated investigators on the basis of actual bias or conflict of interest. This challenge must be raised, in writing, to the Title IX Coordinator within two (2) business days of receipt of the Notice of Investigation.
 - ii. Either party may raise a challenge to the designated adjudicators on the basis of actual bias or conflict of interest. This challenge must be raised, in writing, to the Title IX Coordinator within two (2) business days of receipt of the Notice of Investigation.

- iii. Either party may raise a challenge to the Appeals Officer on the basis of actual bias or conflict of interest. This challenge must be raised, in writing, to the Title IX Coordinator within two (2) business days of receipt of notice of acceptance of the appeal.

9. Title IX proceedings will be conducted in a manner that will include timely notice of meetings at which the complainant and respondent, or both, may be present. Further, complainant and respondent and appropriate officials will be provided timely and equal access to any information that will be used during the informal and formal disciplinary proceedings.

f. Title IX Advisor/Supporter

Being involved in a Title IX matter can be stressful, and many people find it helpful to have the support and advice of someone they trust during the process. Both the Complainant and the Respondent may have one support person present to support and assist them throughout the Complaint process. This person may accompany them to interview meetings, fact finding interviews, and any meetings or other proceedings related to the Complaint process.

The Complainant and the Respondent are not limited in their choice of support person. Support persons may be friends, victim advocates, lawyers, or others. It is the discretion of the Title IX Coordinator whether the support person may serve as a witness in the Title IX matter depending on the facts and circumstances of a fact finding.

A support person is someone who can provide emotional, logistical or other support to a party during the process. The support person may take notes, help organize documents, or consult with the party in a non-disruptive fashion.

Parties are responsible for presenting their own information, and support persons do not have a speaking role during any meeting during the process. In addition, the College's communications during the process will be with the party, not with the support person.

A support person may not delay or otherwise interfere with the process and does not provide representation of the party the way an attorney would do in a formal legal proceeding. A support person's attendance may be disallowed if such support person's presence would be obstructive or would otherwise warrant his or her removal. Absent accommodation for disability, the Complainant and the Respondent may not be accompanied by more than one support person or by other individuals during meetings.

g. Sexual Misconduct/Assault Panel Hearing Procedure

1. The Title IX Coordinator will convene the Sexual Misconduct/Assault Panel for a preliminary hearing and will present members with the investigative officers' report, final statements, witness statements, physical evidence and relevant reports.
2. Panel members will review all materials in the preliminary hearing. Based on their review the panel may elect to interview witnesses (including the investigative officers), request additional information and/or interview the complainant and the respondent (note: if the panel elects to interview either party, both the complainant and respondent must be provided an opportunity to appear).
3. A formal hearing will be scheduled at the panel members' earliest possible convenience. During the formal hearing panelists will consider the evidence, conduct interviews if applicable and debate the merits of the complaint.
4. In accordance with federal law, the Sexual Misconduct/Assault Sexual Misconduct/Assault Panel will use the "preponderance of the evidence" standard to adjudicate complaints.

5. The panel will make a final determination in the case and the Title IX Coordinator will draft a formal letter of notification. Upon approval of the letter, by the panelists, both parties will be notified simultaneously of the decision within two (2) business days.

h. Sanctions -- Sanctions for sexual misconduct or sexual assault will be appropriate to the nature and severity of the offense and will be consistent with relevant College policy guidelines. Sanctions may include, but are not limited to, an oral reprimand, a written reprimand, a warning added to the respondent's file or the probation, suspension or expulsion of a student.

i. Protection of Rights -- Both parties will be informed of the facts developed in the course of the investigation and will be promptly informed about the final outcome of the proceedings. To the extent reasonably possible, all proceedings will be conducted in a way calculated to protect the confidentiality interests of both parties. Moreover, all reasonable action will be taken to ensure that the complainant and those testifying on behalf of either party will suffer no retaliation as a result of their actions. In the event that the allegations are not substantiated, all reasonable steps will be taken to restore the respondent if she or he may have been damaged by the proceedings. If a complainant is found to have been intentionally dishonest in making the allegations or to have made allegations maliciously, the complainant is subject to institutional discipline.

k. Appeals Related to Sexual Misconduct and Assault -- In accordance with Federal law both the respondent and complainant retain the right to appeal the panel's decision. If either party wishes to appeal, she or he must submit a statement to the designated Title IX Coordinator within ten (10) business days stating, with specificity, the reasons for her or his dissatisfaction and the grounds for thinking the case deserves further hearing. *Please note, appeals may be considered for a variety of reasons (new evidence, procedural error, sanction not in accord with the offense, etc...); however, the appellant's disagreement with the panel's finding does not constitute grounds for an appeal.* The Title IX Coordinator, within 30 days of submission of such a request, shall either affirm or overturn the decision. Appeals will be based upon the record made before the Title IX Coordinator and will not constitute a rehearing of the evidence. The person accused will be given the opportunity to present oral argument on such review provided, however, that nothing in the foregoing will be construed to prevent the reviewing committee in its discretion from hearing newly discovered evidence. The written response of the Title IX Coordinator will constitute the final determination of the complaint.

10. PROHIBITION AGAINST RETALIATION

Retaliation exists when action is taken against a complainant or participant in the complaint process that (i) adversely affects the individual's employment or academic status; and (ii) is motivated in whole or in part by the individual's participation in the complaint process.

No individual who makes a complaint alleging a violation of this Policy or who participates in the investigation or resolution of such a complaint shall be subject to retaliation as a result of such activity or participation. Any acts of retaliation, as defined in this Policy, shall be grounds for discipline or corrective measures, up to and including expulsion, termination of employment or termination of relationship with the College.

11. RIGHT TO ALTERNATIVE PROCEDURES

Nothing in this policy is intended to interfere with or deny the right of any individual to pursue other avenues of recourse which may include, but are not limited to, filing a complaint with the United States Department of Education, local law enforcement or other local, State or National organizations.