

# **Rensselaer Polytechnic Institute Title IX and Sexual Misconduct Policy and Procedures**

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Table of Contents

- I. INTRODUCTION** ..... 5
  - A. Commitment to Non-Discrimination ..... 5
  - B. Title IX of the Education Amendments of 1972 and Anti-Discrimination Statutes ..... 5
  - C. Effective Date..... 6
  - D. Reservation and Revocation by Operation of Law ..... 7
  - E. Jurisdiction ..... 7
  - F. Scope..... 8
- II. GENERAL POLICY PROVISIONS** ..... 9
  - A. Title IX Coordinator..... 9
  - B. Delegation of Duties..... 9
  - C. Conflicts of Interest or Bias ..... 9
  - D. Privacy ..... 10
  - E. Crime and Incident Disclosure Obligations ..... 10
  - F. Coordination Among Multiple Institutions ..... 11
  - G. Consensual Relationship and Conflicts of Interest ..... 11
  - H. Alcohol and/or Drug Use Amnesty..... 11
  - I. Records Retention..... 12
  - J. NYS Student Sexual Misconduct Bill of Rights ..... 12
- III. DEFINITIONS** ..... 14
- IV. RESOURCES, SUPPORTIVE MEASURES, AND ACCOMMODATIONS** ..... 22
  - A. Supportive Measures ..... 22
  - B. Confidential Resources ..... 23
  - C. Medical Assistance and Evidence Collection ..... 24
  - D. Disability Accommodations..... 26
- V. REPORTING SEX DISCRIMINATION INCLUDING SEX-BASED HARASSMENT** 27
  - A. How to Report to Rensselaer ..... 27
  - B. Right to Report to Law Enforcement ..... 28
  - C. Employee Reporting Obligations ..... 29
- VI. RESPONDING TO A REPORT** ..... 31
  - A. Basic Requirements..... 31
  - B. Advisors and Emotional Support Persons..... 33

C. Process for Responding to a Report .....	34
D. Emergency Removal and Administrative Leave .....	37
E. Transcript Notations and Student Withdrawal or Employee Separation.....	38
<b>VII. OPTIONS FOR RESOLUTION .....</b>	<b>40</b>
A. Support-Based Resolution.....	40
B. Informal Resolution.....	40
C. Formal Investigative Resolution .....	41
<b>VIII. DISMISSAL .....</b>	<b>42</b>
A. Bases for Dismissal.....	42
B. Dismissal Procedures .....	42
C. Appeals of Dismissals .....	43
<b>IX. DISCIPLINARY SANCTIONS .....</b>	<b>44</b>
A. Determining Sanctions.....	44
B. Implementation of Disciplinary Sanctions.....	44
C. List of Disciplinary Sanctions .....	45
<b>X. APPEALS .....</b>	<b>47</b>
A. Bases for Appeal .....	47
B. Appeal Procedures.....	47
C. Title IX Appeal Board.....	48
D. Final Appeal.....	48
<b>XI. PROHIBITION OF RETALIATION.....</b>	<b>49</b>
<b>XII. ADDITIONAL ENFORCEMENT INFORMATION .....</b>	<b>50</b>
<b>Appendix A – The Institute’s External Reporting Obligations for Sexual Misconduct .....</b>	<b>51</b>
<b>Appendix B – Informal Resolution Procedures .....</b>	<b>53</b>
A. Initiating the Informal Resolution Process.....	53
B. Facilitating an Agreement .....	54
C. Finalizing the Informal Resolution Agreement.....	55
<b>Appendix C – Formal Investigative Resolution Procedures for all Sex Discrimination and other Prohibited Conduct EXCEPT Sex-Based Harassment Involving a Student as the Complainant or Respondent .....</b>	<b>56</b>
A. Notice of Investigation.....	56
B. Assignment of the Investigator/Decisionmaker .....	57
C. Evidence Gathering .....	57
D. Rules of Decorum .....	58

E. Evidence Review .....	58
F. Investigation Report and Determination.....	59
<b>Appendix D – Formal Investigative Resolution Procedures for Sex-Based Harassment involving a Student as Complainant or Respondent .....</b>	<b>61</b>
A. Notice of Investigation.....	61
B. Assignment of the Investigator and Decisionmaker .....	62
C. Evidence Gathering .....	62
D. Rules of Decorum .....	63
E. Evidence Review .....	63
F. Notice of Hearing .....	64
G. Prior to the Hearing.....	65
H. Hearing Procedures .....	66

## I. INTRODUCTION

### A. Commitment to Non-Discrimination

Rensselaer Polytechnic Institute (“the Institute” or “Rensselaer” or “RPI”) is committed to maintaining a safe and healthy learning, living, and working environment that supports the Institute’s educational mission, maintains respect and dignity for all individuals, and protects the rights of all members of the Rensselaer community. This Title IX and Sexual Misconduct Policy reflects Rensselaer’s commitment to a safe and non-discriminatory educational environment, consistent with Title IX of the Educational Amendments Act of 1972 (“Title IX”), the Violence Against Women Act (“VAWA”), and New York State Education Law Article 129-B. The intent of this Policy is to foster personal responsibility, honesty, integrity, individual accountability, and civility toward others.

Rensselaer Polytechnic Institute complies with all applicable federal, state and local non-discrimination laws and is committed to providing a working, living and learning environment free from discrimination and discriminatory harassment based on actual or perceived race (including traits historically associated with race, such as hair texture and protective hair styles), color, religion, sex, gender, pregnancy, childbirth, lactation and related medical conditions, sexual orientation, transgender status, gender dysphoria, gender identity, gender expression, age, marital status, national origin, ancestry, citizenship and immigration status, physical or mental disability, military status, uniformed servicemember status, veteran status, genetic information, genetic predisposition, status as a victim of domestic violence, familial status<sup>1</sup>, known relationship with or association with member(s) of a protected status, certain arrest or conviction records, legal off-premises use of tobacco products and other legal use of consumable products in accordance with the requirements of applicable law, or any other basis protected by applicable federal, state, or local law (individually “protected status,” or collectively, “protected statuses”).

### B. Title IX of the Education Amendments of 1972 and Anti-Discrimination Statutes

Rensselaer does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity, as required by Title IX, including in admissions and employment. Under this policy, **discrimination on the basis of sex includes discrimination on**

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<sup>1</sup> In accordance with the New York State Human Rights Law, familial status is defined to protect (a) any person who is pregnant or has a child or is in the process of securing legal custody of any individual who has not attained the age of 18 years, or (b) one or more individuals (who have not attained the age of 18 years) being domiciled with: (1) a parent or another person having legal custody of such individual or individuals, or (2) the designee of such parent.

*Rensselaer Polytechnic Institute Title IX and Sexual Misconduct Policy and Procedures*

**the basis of sex stereotypes, gender identity, gender expression, sexual orientation, and pregnancy or related conditions.**

**Prohibited sex discrimination under Title IX and Rensselaer policy also includes sex-based harassment in the form of quid pro quo harassment, hostile environment harassment, and four specific offenses (sexual assault, dating violence, domestic violence, and stalking).** In responding to alleged acts of sexual assault, dating and domestic violence, and stalking, the Institute complies with Title IX and its implementing regulations, the Violence Against Women Act (VAWA), the VAWA amendments to the Clery Act, and Article 129-B of the New York State Education Law, setting forth specific requirements to be followed when addressing such alleged acts.

Rensselaer has obligations under Title IX to provide certain supports and modifications to people experiencing pregnancy or related conditions in order to ensure their equal access to the Institute's program or activity. For example, the Institute must treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions and must allow voluntary leaves of absence. Students, employees, or applicants should contact the Title IX Coordinator for more information. Employees or applicants may also contact the Division of Human Resources and refer to Rensselaer's Human Resource Policy Guidelines, found on the HR website, for more information, because additional workplace laws and policies may apply.

Pregnancy or related conditions include pregnancy, childbirth, termination of pregnancy, lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; and recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

The Institute also prohibits retaliation against any person opposing sex discrimination or participating in any sex discrimination investigation or complaint process, whether internal or external to the institution.

### C. Effective Date

The procedures set forth in this policy will be utilized to address conduct that could reasonably be considered sex discrimination, including sex-based harassment, which has occurred on or after **August 1, 2024**. Allegations of sex discrimination that occurred before August 1, 2024 but are reported after August 1, 2024 will be addressed under the Title IX and Sexual Misconduct Policy and Procedures in effect at the time the alleged discriminatory conduct occurred.

#### D. Reservation and Revocation by Operation of Law

If any portion of the Education Amendments Act of 1972, New York State Education Law, Violence Against Women Act, or implementing regulations of such statutes or other regulating authority is stayed or held invalid by a court of law, then the elements of the policy that implement such invalidated law or regulation will be deemed revoked as of the date of the opinion or order of such court.

Rensselaer reserves the right to revise this Policy at any time without notice. All revisions supersede prior policy and are effective immediately upon posting to Rensselaer's website. The website of the Title IX Coordinator is: [www.SexualViolence.rpi.edu](http://www.SexualViolence.rpi.edu).

#### E. Jurisdiction

The procedures adopted by the Institute under this policy apply to all allegations of sex discrimination occurring under the Institute's education program or activity in the United States. Conduct that occurs under the Institute's education program or activity including but not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by the Institute and conduct that is subject to the Institute's disciplinary authority.

The Institute also has an obligation to address sex-based harassment under its program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the Institute's education program or activity or outside the United States. Also, under New York State (NYS) Education Law Art. 129-B, the Institute must respond to allegations of sexual assault, dating violence, domestic violence or stalking that occurs on-campus, off-campus or while studying abroad.

This policy applies to prohibited conduct alleged to have been committed by RPI students, employees (both faculty and staff), and other individuals participating or attempting to participate in Institute education programs or activities. Any individual who is not an Institute student or employee is generally considered a third party. The Institute's ability to take corrective action against a third party may be limited and will depend on the nature of the third party's relationship, if any, to the Institute. When appropriate, the Title IX Coordinator will refer such allegations against third parties to the appropriate employer or organization that has disciplinary authority over them, if any, or where warranted, law enforcement authorities.

The status of a party may impact what resources and remedies are available to them.

## F. Scope

Under Rensselaer’s policy, sex discrimination includes discrimination on the basis of sex stereotypes, gender identity, gender expression, sexual orientation, and pregnancy or related conditions. Prohibited sex discrimination under this policy also includes sex-based harassment in the form of quid pro quo harassment, hostile environment harassment, sexual assault, dating violence, domestic violence, stalking, and sexual exploitation. Retaliation is further considered “prohibited conduct” under this policy. The Institute will respond to and resolve reports of all of these types of prohibited conduct utilizing the processes and procedures described herein.

This policy provides for the prompt and equitable resolution of sex discrimination complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity. The Institute will respond to allegations of sex discrimination, including sex-based harassment utilizing various methods of resolution. The Institute has adopted two types of Formal Investigative Resolution procedures: (1) Procedures for all prohibited conduct *except* sex-based harassment involving a student as the complainant or respondent, found in Appendix C of this policy; and (2) Procedures for sex-based harassment involving a student as the complainant or respondent, found in Appendix D of this policy. In certain circumstances where the Title IX Coordinator has deemed it appropriate, the parties may instead choose to resolve an allegation of prohibited conduct through Informal Resolution, which results in a written agreement between the parties.



## II. GENERAL POLICY PROVISIONS

### A. Title IX Coordinator

The Title IX Coordinator is charged with monitoring compliance with Title IX; providing education and training; and coordinating the Institute's response, investigation, and resolution of all reports of prohibited conduct under this policy. The Title IX Coordinator acts with independence and authority and oversees all resolutions under this policy free from bias and conflicts of interest. The Title IX Coordinator is available to meet with any student, employee, or other individual to discuss this policy or the accompanying procedures and can be contacted at:

***Elizabeth Brown-Goyette***  
*Manager, Employee Relations & Title IX*  
*Title IX Coordinator (Lead)*  
*Division of Human Resources*  
*Gurley Building, 2<sup>nd</sup> Floor*  
*21 Union Street*  
*Troy, NY 12180*  
[\*browne8@rpi.edu\*](mailto:browne8@rpi.edu)  
*(518) 276-3065*

***Karen Fajardo***  
*Sr. Human Resources Specialist*  
*Title IX Coordinator (Deputy)*  
*Division of Human Resources*  
*Gurley Building, 2<sup>nd</sup> Floor*  
*21 Union Street*  
*Troy, NY 12180*  
[\*fajark@rpi.edu\*](mailto:fajark@rpi.edu)  
*(518) 276-4093*

Contact information for all Title IX Staff can be found at [SexualViolence.rpi.edu](http://SexualViolence.rpi.edu).

### B. Delegation of Duties

Obligations in this policy assigned to a particular title, such as the Title IX Coordinator, may be designated as appropriate by the Institute, including to external professionals.

### C. Conflicts of Interest or Bias

Any individual carrying out any part of this policy shall be free from any actual conflict of interest or demonstrated bias that would impact the fair and impartial handling of a matter. In the event any investigator, decisionmaker, or Appeals Officer(s) has a conflict of interest, that individual is to notify the Title IX Coordinator upon discovery of the conflict so that the Title IX Coordinator may take appropriate action. Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator will immediately notify an appropriate official who will take or reassign the role of Title IX Coordinator for the purpose of handling the matter at issue. This policy will note where parties have the opportunity to challenge the participation of any individual implementing this policy based on actual conflict of interest or demonstrated bias.

#### D. Privacy

References made to privacy mean that Institute offices and employees who cannot guarantee confidentiality will maintain privacy to the greatest extent possible, relaying information only as necessary to investigate or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. The Institute will limit the disclosure as much as practicable.

Privacy is distinguished from confidentiality. Institute offices and employees who are confidential are not required to report information about sex discrimination to the Title IX Coordinator. More information about confidential employees and resources can be found in Section IV(B) of this policy.

All activities under these procedures shall be conducted with respect for the privacy interests of those involved. While Rensselaer will take all reasonable steps to protect the privacy of individuals involved in a complaint, investigation, or other proceeding under this policy, it may be necessary to disclose some information to individuals or offices on campus in order to address a complaint or provide for the physical safety of an individual or the campus. Thus, Rensselaer cannot, and does not, guarantee that all information related to complaints will be kept confidential.

In order to maintain the privacy of evidence gathered as part of any resolution process, access to materials under the procedures in this policy will be provided only by a secure method, and parties and advisors are not permitted to make copies of any documents shared or make use of the documents outside of the processes described in this policy, except where such use cannot be legally prohibited; disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized. Rensselaer may require parties and advisors to sign a non-disclosure agreement that restricts review and use of information and evidence gathered or disclosed during resolution processes to authorized purposes related to the complaint of sex discrimination.

Parties may request to review a hard copy of materials, and Rensselaer will make that available in a supervised or monitored setting. Inappropriately sharing materials provided during this process may constitute retaliation under this policy. Nothing in this policy prohibits parties from discussing or disclosing the outcome of the matter, consistent with the prohibition on retaliation.

#### E. Crime and Incident Disclosure Obligations

The Clery Act is a federal crime and incident disclosure law. It requires, among other things, that the Institute report the number of incidents of certain crimes, including some of the prohibited conduct in this policy, that occur in particular campus-related locations. The Clery Act also requires the Institute to issue a warning to the community in certain circumstances.

In the statistical disclosures and warnings to the community, the Institute will not disclose a complainant's name or other information that identifies the complainant unless required by law to do so. The Title IX Coordinator will refer information to the Rensselaer Polytechnic Institute Department of Public Safety when appropriate for a determination about Clery-related actions, such as disclosing crime statistics or sending campus notifications. Reports to the Rensselaer Polytechnic Institute Department of Public Safety can be made by calling the department's non-emergency line 24 hours a day at (518) 276-6656.

For more detailed information regarding Rensselaer's external reporting obligations related to sex-based harassment and sexual misconduct, see Appendix A.

#### F. Coordination Among Multiple Institutions

When such conduct involves students or employees from two or more educational institutions, such institutions may work collaboratively to address the conduct provided that such collaboration complies with the Family Educational Rights and Privacy Act (FERPA).

#### G. Consensual Relationship and Conflicts of Interest

Employees, including but not limited to tenure and non-tenure faculty, contingent faculty, staff, research professionals, and members of the President's Cabinet, are prohibited from having sexual or romantic relationships with students, except in the case of a spouse or intimate partner of such employee where such status existed prior to enrollment or employment. Students who are employed or serving in roles of responsibility including, but not limited to, teaching assistants, research assistants, resident assistants, and learning assistants are prohibited from having sexual or romantic relationships with students over whom they have power or authority.

#### H. Alcohol and/or Drug Use Amnesty

A student making a report to the Title IX Coordinator may be eligible for amnesty for drug or alcohol related violations of the *Rensselaer Handbook of Student Rights and Responsibilities* that occurred at or around the same time as the incident or that occurred in connection with the incident.

The health and safety of every student at the Institute is of the utmost importance. The Institute recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at a time that violence (including but not limited to domestic violence, dating violence, stalking, or sexual assault) occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The Institute strongly encourages students

to report domestic violence, dating violence, stalking, or sexual assault to Institute officials. A bystander or complainant acting in good faith who discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Institute officials or law enforcement will not be subject to discipline for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

This policy does not provide amnesty for the prohibited sale or distribution of drugs or alcohol nor to those who use drugs or alcohol as a weapon or to facilitate prohibited conduct.

The use of alcohol or other drugs will not function as a defense for any conduct that violates this Policy.

This amnesty does not apply to employees.

### I. Records Retention

In implementing this policy, records of all reports and resolutions will be kept by the Title IX Coordinator in accordance with the applicable Institute records retention schedule and law. All records will be afforded the confidentiality protections required by laws governing confidentiality of student information, including but not limited to FERPA.

### J. NYS Student Sexual Misconduct Bill of Rights

With regard to the offenses of domestic violence, dating violence, stalking, and sexual assault, New York State Education Law Article 129-B states the following:

All Students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;

6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual or complainant, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

### III. DEFINITIONS

**Admission:** Selection for any enrollment, membership, or matriculation in or at an education program or activity operated by Rensselaer.

**Applicant:** An individual who has applied or attempted to apply for admission to an Institute education program or activity or applied or attempted to apply for employment by the Institute.

**Coercion:** Consent cannot be procured by the use of physical force, compulsion, threats, intimidating behavior, or coercion. Sexual activity accompanied by coercion or force is not consensual.

- Coercion refers to unreasonable pressure for sexual activity. The use of coercion can involve the use of pressure, manipulation, substances, or force. Ignoring objections of another person can be a form of coercion.
- Force refers to the use of physical violence or imposing on someone physically to engage in sexual contact or intercourse. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance.

**Complainant:** A student or employee of Rensselaer who is alleged to have been subjected to prohibited conduct as defined by this policy, or another individual who is alleged to have been subjected to prohibited conduct as defined by this policy and who was participating or attempting to participate in Rensselaer's educational programs or activities at the time of the alleged prohibited conduct.

**Complaint:** An oral or written request to Rensselaer that objectively can be understood as a request for the Institute to investigate and make a determination about alleged sex discrimination under Title IX and/or this policy. A complaint can be filed with the Title IX Coordinator in person, by mail or e-mail, or by using the contact information listed for the Title IX Coordinator or the online reporting form found on Rensselaer's Title IX website: [www.SexualViolence.rpi.edu](http://www.SexualViolence.rpi.edu).

**Consent:** Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time. Consent cannot be given when it is the result of any coercion,

intimidation, force, or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop. Under New York State law, children under 17 years of age cannot legally consent to having sexual contact with an adult.

**Dating Violence:**

(1) As defined in the VAWA Reauthorization of 2022 and the VAWA Amendments to the Clery Act, dating violence means any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

(2) For the purposes of this policy, dating violence includes emotional and psychological abuse.

**Days:** Any reference in this policy to a number of days refers to business days when the Institute is in normal operation.

**Decisionmaker:** Trained professional(s) designated by the Institute to decide responsibility, sanction, or appeals. A decisionmaker may be one person, or a panel of multiple people as determined by the Institute. When there is no hearing, the investigator may be appointed as the decisionmaker.

**Disciplinary Sanctions:** Consequences imposed on a respondent following a determination under this policy that the respondent violated the Institute’s prohibition of sex discrimination or engaged in other prohibited conduct under this policy.

**Disclosure or Report:** A disclosure or report may be made by anyone, whether they learned about conduct potentially constituting sex discrimination under this policy, or whether they personally experienced such conduct. A person making a disclosure or report may or may not be seeking to initiate an investigation.

**Domestic Violence:**

(1) As defined by the Clery Act, domestic violence means any felony or misdemeanor crimes of violence committed by a person who (A) is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the Institute, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shares a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

(2) For the purposes of this policy, domestic violence includes emotional and psychological abuse.

**Education Program or Activity:** Rensselaer’s “education program or activity” includes all campus operations, including off-campus settings that are operated or overseen by the Institute, including, for example, field trips, online classes, and athletic programs; conduct subject to the Institute’s disciplinary authority that occurs off-campus; conduct that takes place via Institute-sponsored electronic devices, computer and internet networks and digital platforms operated by, or used in the operations of, the Institute. Conduct that occurs outside of the education program or activity may contribute to a hostile environment within the program or activity.

**Finding:** A written conclusion by a preponderance of the evidence, issued by an investigator or decisionmaker, that the conduct did or did not occur as alleged.

**Incapacitation:** The physical and/or mental inability to make informed, rational judgments and decisions because they lack the capacity to give knowing and informed consent (e.g., to understand the “who, what, when, where, why, and how” of a sexual interaction). Incapacitation is determined through consideration of all relevant indicators of a person’s state and is not synonymous with intoxication, impairment, or being under the influence of drugs or alcohol. This policy also covers a person whose incapacity results from temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs. Under this policy, the Institute will consider whether a respondent knew or should have known the complainant to be incapacitated, based on an objective, reasonable person standard that assumes the reasonable person is both sober and exercising sound judgment.

**No Contact Order:** A No Contact Order is a document issued by an Institute administrator that is designed to limit or prohibit contact or communications between the parties. A No Contact Order may be mutual or unilateral at the discretion of the Institute.

**Notice:** Where explicitly noted and whenever otherwise practicable, notices under this policy will be made in writing and sent to a student or employee’s Institute e-mail address, delivered via Certified Mail to the local or permanent address(es) of the parties as indicated in official Institute records, and/or personally delivered to the intended recipient.

**Party:** Refers to the complainant or respondent.

**Peer Retaliation:** Retaliation by a student against another student.



**Pregnancy or related condition:** Pregnancy, childbirth, termination of pregnancy, or lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or recovery from pregnancy, childbirth, termination of pregnancy, or related medical conditions.

**Prohibited Conduct:** Prohibited conduct includes all conduct prohibited by Rensselaer under this policy, including: sex discrimination, sex-based harassment, sexual assault, dating violence, domestic violence, stalking, sexual exploitation, and retaliation.

**Relevant:** Relevant means related to the allegations of sex discrimination under investigation pursuant to this policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination or other prohibited conduct occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination or other prohibited conduct occurred.

**Remedies:** Measures provided, as appropriate, to a complainant or any other person the Institute identifies as having had their equal access to the Institute's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the education program or activity after the Institute determines that sex discrimination occurred. Only the complainant will be informed of any remedies pertaining to them. Remedies include, but are not limited to, academic support and/or opportunity to retake a class or resubmit work or time extensions on course or degree completion, or non-academic support such as counseling or changes to work assignments or location. The Title IX Coordinator is responsible for coordinating the implementation of remedies.

**Respondent:** An individual or group of individuals such as a student organization who has been alleged to have violated the Institute's prohibition of sex discrimination or otherwise engaged in prohibited conduct under this policy.

**Retaliation:** Any materially adverse action taken against an individual because they were involved in the disclosure, reporting, investigation, or resolution of a report of prohibited conduct under this policy. Retaliation includes adverse employment or academic actions, threats, intimidation, harassment, coercion, discrimination, or violence against any person by the Institute, a student, or an employee or other person authorized by the Institute to provide aid, benefit, or service under the Institute's education program or activity, for the purpose of interfering with any right or privilege secured by this policy or by law, including Title IX or its regulations. Adverse action does not include perceived petty slights or trivial annoyances.

**Sex-Based Harassment:** Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Sex-based harassment includes the following:

- a. **Quid pro quo Harassment:** An employee, agent, or other person authorized by the Institute to provide an aid, benefit, or service under the Institute’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct.
- b. **Hostile Environment Harassment:** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the Institute’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - The degree to which the conduct affected the complainant’s ability to access or participate in the Institute’s education program or activity;
  - The type, frequency, and duration of the conduct;
  - The parties’ ages, roles within the Institute’s education program or activity, previous interactions, and other factors about a party that may be relevant to evaluating the effects of the conduct;
  - The location of the conduct and the context in which the conduct occurred; and
  - Other sex-based harassment in the Institute’s education program or activity.
- c. In the State of New York, the following definition of sexual harassment will be applied to **situations involving employees** when the definitions in this policy (specific to Title IX) are not applicable, as determined by the Title IX Coordinator.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment need not be severe or pervasive to be unlawful but must consist of more than petty slights or trivial inconveniences. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment,
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

NYS workplace sexual harassment can take a variety of forms. Examples include, but are not limited to:

- Unwelcome sexual propositions, invitations, solicitations, and flirtations;
- Non-consensual sexual intercourse or other sexual contact;
- Coercive behavior, unreasonable pressure, or manipulation to compel a person to engage in sexual activity;
- Threats or insinuations that a person's employment, wages, promotional opportunities, work assignments, academic grade, classroom assignments, or other conditions of employment or academic or other collegiate life may be adversely affected by not submitting to sexual advances;
- Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes, or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene phone calls, mail, or email;
- Sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or study area, if not used solely for a legitimate educational purpose;
- Non-consensual touching, grabbing, groping, pinching, or other physical contact;
- Spreading sexual rumors; distributing intimate or sexual information about another person;
- Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person;
- Electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person.

**Sexual Act or Activity:** Sexual act or activity means: (A) Contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; (B) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; (C) The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or (D) The intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

**Sexual Assault:**

(1) As defined by the Clery Act, an offense classified as a forcible or nonforcible sex offense under the Uniform Crime Reporting System of the Federal Bureau of Investigation. Specifically, this includes:

- (a) Rape – The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim;

(b) Fondling – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity;

(c) Incest – Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; and

(d) Statutory Rape – Sexual intercourse with a person who is under the statutory age of consent.

(2) For the purposes of this policy, sexual assault includes any sexual act or sexual contact directed against another person, without the consent of that person, including instances where that person is incapable of giving consent.

**Sexual Contact:** Sexual contact means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

**Sexual Exploitation:** The abuse or exploitation of another person’s sexuality without their consent for the perpetrator’s advantage, benefit, or gratification, or the advantage, benefit, or gratification of a third party. Sexual exploitation includes, but is not limited to, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person; causing the prostitution of another person; electronically recording, photographing, or transmitting intimate or sexual images, sounds, or utterances of another person; allowing third parties to observe sexual acts; engaging in voyeurism; distributing intimate or sexual information about another person; and/or knowingly transmitting a sexually transmitted infection to another person.

**Sexual Misconduct:** This term includes dating violence, domestic violence, non-consensual sexual contact, sexual assault, sexual exploitation, and stalking, as defined by Title IX and under this policy.

**Stalking:** 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.

**Student:** An individual who has gained admission to a degree program sponsored by the Institute, registered for one or more credit hours, or enrolled in any non-credit, certificate, or other education program offered by the Institute.

**Supportive Measures:** Individualized measures offered as appropriate as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- Restore or preserve that party's access to the Institute's education program or activity, including measures that are designed to protect the safety of the parties or the Institute's educational environment; or
- Provide support during the Institute's resolution procedures or during an alternative resolution process.

## **IV. RESOURCES, SUPPORTIVE MEASURES, AND ACCOMMODATIONS**

Rensselaer is committed to treating all members of the community with dignity, care, and respect. Any individual who experiences or is affected by sex discrimination, including sex-based harassment, will have access to supportive resources on- and off-campus, regardless of whether or not the individual decides to participate in resolution processes under this policy.

Rensselaer recognizes that matters addressed under this policy can cause substantial physical, mental, and emotional distress to all involved and encourages all individuals to seek the support available to them.

### A. Supportive Measures

The Institute will make supportive measures available to all individuals who report sex discrimination, regardless of whether they decide to make a complaint or engage resolution procedures under this policy, and to respondents when they are notified of allegations made against them.

Supportive measures are individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- Restore or preserve that party's access to the Institute's education program or activity, including measures that are designed to protect the safety of the parties or the Institute's educational environment; or
- Provide support during the Institute's resolution procedures or during an alternative resolution process.

Supportive measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; no-contact directives (which may be mutual or unilateral at the discretion of the Title IX Coordinator); and training and education programs related to sex-based harassment.

Supportive measures are non-disciplinary and non-punitive. Any supportive measures put in place will be kept confidential, except when doing so impairs the ability of the institution to provide the supportive measures.

A party may challenge the Institute's decision to provide, deny, modify, or terminate supportive measures when such measures are applicable to them. An impartial employee will be designated to consider modification or reversal of the Institute's decision to provide, deny, modify,

or terminate supportive measures. When the individual providing supportive measures is an employee or other individual identified by the Title IX Coordinator to provide supportive measures, the Title IX Coordinator will be designated to consider the challenge regarding supportive measures. The impartial employee will typically respond to the challenge within five (5) days.

The Title IX Coordinator has the discretion to implement or modify supportive measures. Violation of the parameters of supportive measures may violate *Rensselaer's Handbook of Student Rights and Responsibilities* or *Rensselaer's Human Resources Policy Guidelines*.

## B. Confidential Resources

Rensselaer values the privacy of its students, employees, and other community members. Community members should be able to seek the assistance they need and access this policy without fear that the information they provide will be shared more broadly.

### (1) *Confidentiality*

Individuals may speak confidentially with a Confidential Resource. Confidential Resources (e.g., licensed mental health care providers, physicians, nurses, clergy) may not report to the Title IX Coordinator any identifying information about conduct that may violate Rensselaer's policies against sex discrimination without the written consent of the individual who supplied the information, unless required by law. Such disclosures will not be reported to the Title IX Coordinator or initiate any process under this policy.

Rensselaer employs two types of employees who are not required to report information about sex discrimination to the Title IX Coordinator:

- (a) *Employees whose communications are privileged or confidential under Federal or State law.*

The employee must be hired for and functioning within the scope of their duties to which the privilege or confidentiality applies.

Information disclosed to these employees cannot be disclosed without the express permission of the individual disclosing the information. However, state law requires professional counselors to report to appropriate authorities: (i) when a patient is likely to engage in conduct that would result in serious harm to the patient or others; (ii) if there is reasonable cause to suspect that a minor has been sexually abused or subjected to child abuse or maltreatment.

(b) *Employees designated by the Institute as confidential.*

These employees are designated as confidential for the purpose of providing services to the campus community related to sex discrimination. Such employees must be acting in the scope of that role when they learn of the information about sex discrimination for this exemption to apply.

Disclosures made to these employees means that information will not be shared with the Title IX Coordinator or anyone within the Institute, but may be released under legal action or court order without the permission of the individual disclosing the information.

At Rensselaer, these employees are: non-privileged staff working in the Student Health Center, Student Counseling Center, Health Education Office, and Office of Religious Affairs; and Graduate Ombudsmen and Title IX Program Navigators when those employees are explicitly acting in those roles.<sup>2</sup>

### C. Medical Assistance and Evidence Collection

An individual is encouraged to seek medical attention immediately following an incident of sexual misconduct, and particularly sexual violence, to assess and treat any injuries, screen for pregnancy (if appropriate) and sexually transmitted infections, and to properly collect and preserve evidence, if the individual consents to do so. Collecting evidence does not obligate an individual to any particular course of action but can assist the authorities should the individual decide to pursue criminal charges now or in the future. Rensselaer will assist any community member in seeking medical services.

Physical evidence of sexual misconduct or sexual violence should be collected from the individual's person within hours of the incident, although it may be possible to obtain evidence from towels, sheets, clothes, etc. for much longer periods of time. An individual who believes they have been subject to sexual misconduct and particularly sexual violence should go to an emergency room before washing their body or changing clothing. Hospitals have personnel who are specially trained to collect evidence in such cases. They will properly collect and preserve any evidence as well as document any injuries. It is best not to change clothes. However, if clothes have been changed, the clothes worn at the time of the incident should be brought to the emergency room in a clean, sanitary container such as a paper grocery bag or wrapped in a clean sheet (plastic

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<sup>2</sup> Title IX Program Navigators are employees of the Institute who have received training in Title IX policy, processes, and procedures and are available by appointment to offer student complainants and respondents confidential discussion and support. Contact a Title IX Coordinator to learn more.



containers do not breathe and may render evidence useless). Bring a change of clothing to the hospital as the clothes worn at the time of the incident will likely be kept as evidence.

Rensselaer’s Student Health Center can provide after-incident and follow-up medical care; however, it is not equipped to collect forensic evidence. The closest emergency room offering forensic examinations and evidence collection is Samaritan Hospital/St. Peter’s Partners located at 2215 Burdett Avenue in Troy.

<b>STUDENT RESOURCES Privileged &amp; Confidential</b>		
<i>On Campus</i>		
Office	Location	Contact Information
Student Counseling Center:	Academy Hall	(518) 276-6479
24 Hour Counselor on Call (BHS):	N/A	(518) 276-8888
Student Health Center: (sexually transmitted infection and pregnancy testing)	Academy Hall	(518) 276-6287
Religious Affairs:	Rensselaer Union 3 <sup>rd</sup> Floor	(518) 276-6518
<i>Off Campus</i>		
Rensselaer Co Sexual Assault Hotline	N/A	(518) 271-3257
Samaritan Hospital Emergency Room: (free sexual assault forensic exam/evidence collection)	2215 Burdett Ave. Troy, New York 12180	(518) 271-3424
NYS Sexual Assault/Domestic Violence Hotline:	N/A	(800) 942-6906
National Suicide Prevention Lifeline:	N/A	(800) 273-8255
Global Crisis Text Line:	N/A	Text “Hello” to 741741

<b>STUDENT RESOURCES Employees Exempt from Reporting</b>
<ul style="list-style-type: none"> <li>• Office of Religious Affairs staff</li> <li>• Student Health Services staff, which includes:               <ul style="list-style-type: none"> <li>• Office of Health Education;</li> <li>• Student Health Center; and</li> <li>• Student Counseling Center.</li> </ul> </li> </ul>

<b>EMPLOYEE RESOURCES Privileged &amp; Confidential</b>		
Office	Location	Contact Information
Employee Assistance Program (free, confidential 24/7 counseling and support)	N/A	<a href="https://portal.bhsonline.com">https://portal.bhsonline.com</a> or call (800) 327-2251 (Organization ID: RPI):
<b>Off Campus</b>		
Rensselaer County Sexual Assault Hotline:	N/A	(518) 271-3257
Samaritan Hospital Emergency Room: (free sexual assault forensic exam)	2215 Burdett Ave. Troy, New York 12180	(518) 271-3424
NYS Sexual Assault/Domestic Violence Hotline:	N/A	(800) 942-6906
National Suicide Prevention Lifeline:	N/A	(800) 273-8255
Global Crisis Text Line:	N/A	Text "Hello" to 741741

<b>EMPLOYEE RESOURCES Employees Exempt from Reporting</b>
<ul style="list-style-type: none"> <li>Office of Religious Affairs staff</li> </ul>

#### D. Disability Accommodations

The Institute is committed to providing individuals with disabilities equal access and opportunity and strives in its policies and practices to provide for the full participation of individuals with disabilities. This policy does not alter any institutional obligations under applicable disability laws, including the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973, among others.

Parties may direct requests for reasonable accommodations for disclosed disabilities relating to the implementation of this policy to the Title IX Coordinator at any time. Accommodations will be granted if they are appropriate and do not fundamentally alter the processes described in this policy.

The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the parties, even where the parties may be receiving accommodations in other institutional programs and activities.

If the complainant or respondent discloses a disability and requests an accommodation, the Title IX Coordinator may consult, as appropriate, with Rensselaer's Disability Student Services staff to provide support to students with disabilities to determine how to comply with applicable law in the implementation of any supportive measures, or any other reasonable accommodations requested during any process or proceedings under this policy.

## V. REPORTING SEX DISCRIMINATION INCLUDING SEX-BASED HARASSMENT

### A. How to Report to Rensselaer

All reports of violations of this policy will be taken seriously and in good faith. The Title IX Coordinator is responsible for providing information and guidance regarding how to file a complaint with the Institute and/or local law enforcement, as well as information and assistance about what course of action may best support the individual(s) involved and how best to address the complaint.

Every reasonable effort will be made to maintain the privacy of those making a report to the extent possible. In all cases, the Institute will give consideration to the party bringing forward a report with respect to how the matter is pursued. The Institute may, when necessary to protect the community, initiate an investigation or take other responsive actions to a report, even when the person identifying a concern chooses not to participate in a resolution process and/or requests that the Institute not initiate an investigation.

#### *Methods of Reporting*

Employees, students, or third parties such as guests, visitors, volunteers, invitees, and alumni who believe that this policy has been violated should promptly contact the Title IX Coordinator or another member of the Title IX Office as follows:

***Elizabeth Brown-Goyette***  
*Manager, Employee Relations & Title IX*  
*Title IX Coordinator (Lead)*  
*Division of Human Resources*  
*Gurley Building, 2<sup>nd</sup> Floor*  
*21 Union Street*  
*Troy, NY 12180*  
[\*browne8@rpi.edu\*](mailto:browne8@rpi.edu)  
*(518) 276-3065*

***Karen Fajardo***  
*Sr. Human Resources Specialist*  
*Title IX Coordinator (Deputy)*  
*Division of Human Resources*  
*Gurley Building, 2<sup>nd</sup> Floor*  
*21 Union Street*  
*Troy, NY 12180*  
[\*fajark@rpi.edu\*](mailto:fajark@rpi.edu)  
*(518) 276-4093*

***Contact information for all Title IX Staff can be found at [SexualViolence.rpi.edu](http://SexualViolence.rpi.edu).***

Reports can also be made 24 hours a day, 365 days a year by contacting the **Rensselaer Polytechnic Institute Department of Public Safety:**

24 hr. Emergency: (518) 276-6611 or extension 6611 from campus phone

24 hr. Non-emergency: (518) 276-6656

A report can also be filed utilizing this form: [SexualViolence.rpi.edu/incident-report](https://SexualViolence.rpi.edu/incident-report). Reporting individuals may choose to use the online form to report anonymously or to provide their name and contact information. However, individuals who choose to report anonymously are advised that it may be difficult for the Institute to take action based on an anonymous report, especially where corroborating information is not available or is limited. However, anonymous reports may be used for purposes of compliance with Rensselaer's obligations under the Clery Act and tracked by the Title IX Coordinator to inform the Institute's efforts to prevent sex discrimination.

### *Time Limits for Reporting*

There is no deadline for making a report of sex discrimination. However, the Institute encourages prompt reporting as the ability of the Institute to pursue the complaint to conclusion may be hindered by the passage of time.

### *Emergency Access to Information and Resources*

At any time, an employee of one of the above-mentioned offices trained in interviewing victims of sexual assault will be available to provide information about options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. These individuals will also explain whether they are authorized to offer the reporting individual confidentiality or privacy, and shall inform the reporting individual of other reporting options.

## **B. Right to Report to Law Enforcement**

Some prohibited conduct may constitute a violation of both the law and Institute policy. The Institute encourages students and employees to report alleged crimes promptly to local law enforcement agencies and/or the New York State Police. All persons have the right to file a report with law enforcement, as well as the right to decline to file a report with law enforcement. The decision not to file a report with law enforcement shall not be considered as evidence that there was not a violation of Rensselaer policy.

Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence. The standards for finding a violation of criminal law are different from the standards for finding a violation of this policy. Conduct may constitute prohibited conduct under this policy even if law enforcement agencies lack sufficient evidence of a crime and decline to prosecute.

Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. However, when a complaint is made to the Institute as well as to law enforcement, Rensselaer may delay its process if a law enforcement agency requests that the Institute delay its process for a reasonable amount of time to allow law enforcement to gather evidence of criminal misconduct. These temporary delays should not last more than ten (10) days except when law enforcement specifically requests and justifies a longer delay. Criminal or legal proceedings are separate from the processes in this policy and do not determine whether this policy has been violated.

All investigations and hearings under this policy will be adequate, reliable, and impartial, and will seek to collect evidence and names of witnesses to gather information that is directly or substantially relevant to determine whether the alleged policy violation occurred, and will not be based on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

In the case of an emergency, where the physical well-being of a member of the Institute community or the safety of Rensselaer as an institution is threatened, any individual with such knowledge should promptly inform the Rensselaer Department of Public Safety. The Institute may take any immediate steps as may be necessary and appropriate under the circumstances to ensure the well-being of the Institute community and Institute as an institution.

*Rensselaer Polytechnic Institute Department of Public Safety:*

24 hr. Emergency: (518) 276-6611 or ext. 6611 from campus phone

24 hr. Non-emergency: (518) 276-6656

### C. Employee Reporting Obligations

Rensselaer believes it is important to be proactive in taking reasonable steps to identify and prevent incidents of sex discrimination. All employees, with limited exceptions as identified by the Institute (*see* “Confidential Resources,” Section IV(B) of this policy), are required to promptly provide to the Title IX Coordinator all complaints or reports of sex discrimination, including sex-based harassment and share all information reported or made available to the employee. If an employee in a supervisory capacity has direct knowledge of an incident of harassment or discrimination on the part of, or directed toward, any employee of the Institute, that supervisor is required to bring the matter to the attention of the Title IX Coordinator.

Researchers conducting an IRB-approved human subjects research study designed to gather information about sex discrimination are not required to report disclosures made in the course of that study to the Title IX Coordinator.

Rensselaer also encourages employees who themselves experience sex discrimination to bring their concerns to the Title IX Coordinator, though they are not required to do so. If they wish, employees may report their own experiences anonymously using this form:

[SexualViolence.rpi.edu/incident-report](https://info.rpi.edu/sexual-violence/incident-report)

When providing information to the Title IX Coordinator about a situation involving a student as complainant or respondent, or information acquired while acting in a supervisory capacity, the employee must include their own name and contact information, and all known details about an incident, which may include, if known, the dates, times, locations, names of involved individuals and the nature of the incident.

Aside from this reporting obligation, employees will, to the fullest extent possible, maintain the privacy of an individual's information, consistent with FERPA and institutional policy:

<https://info.rpi.edu/registrar/ferpa-policy/#StatementofPolicyandProceduresinCompliancewiththeFamilyEducationalRightsandPrivacyAct>.

In addition, certain employees of the Institute are considered by law to be mandated reporters of child abuse and may be required to notify child protective services, the New York State Central Register of Child Abuse and Maltreatment, and/or local law enforcement.

## **VI. RESPONDING TO A REPORT**

### A. Basic Requirements

Rensselaer will respond to all complaints of prohibited conduct in a prompt and equitable manner and will treat complainants and respondents equitably.

#### *Objectivity*

Rensselaer will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

#### *Timeframes*

In those cases that do not include a hearing, the Institute strives to complete the investigation process within ninety (90) days from the date of the Notice of Investigation. In those cases that include a hearing, the Institute strives to complete the investigation process within ninety (90) days from the date of the Notice of Investigation and complete the hearing within forty-five (45) days of the Notice of Hearing.

The timeframe for any part of the resolution process may be extended for good cause by a Title IX Coordinator. All parties shall be notified, in writing, of any extension to the timeframe that is granted, the reason for the extension, and the new anticipated date of conclusion of the investigation and/or hearing. Good cause reasons for extension may include, but are not limited to, ensuring availability of witnesses and other participants and ensuring participants have sufficient time to review materials.

Rensselaer shall not unreasonably deny a student party's request for an extension of a deadline related to a complaint during periods of examinations or school closures.

The investigator and/or Title IX Coordinator shall provide the parties with periodic status updates, in writing.

#### *Presumption of Innocence*

The respondent is presumed not responsible for the alleged sex discrimination until a determination is made at the conclusion of a Resolution Procedure.

### *Burden and Standard of Proof*

Rensselaer has the burden of conducting an investigation that gathers sufficient evidence to determine whether prohibited conduct occurred. The burden of proving prohibited conduct does not rest with any party, and any party may decide to limit their participation in part or all of the process, or to decline to participate. The standard of proof used in any investigation and decision-making process is the preponderance of the evidence standard, which means that the decisionmaker must determine, based on the evidence, that it is “more likely than not” that prohibited conduct occurred.

### *Impermissible Evidence*

The following types of evidence, and questions seeking that evidence are impermissible. This means this information will not be accessed, considered, disclosed, or otherwise used except by the Institute to determine whether one of the exceptions listed below applies.

- Evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- Evidence provided to an employee designated by the Institute as exempt from internal reporting under this policy, unless the person who made the disclosure or otherwise provided evidence to that employee has voluntarily consented to re-disclosure;
- A party’s or witness’s records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the Institute obtains that party’s or witness’s voluntary, written consent for use in its resolution procedures; and
- Evidence that relates to the complainant’s sexual interests or prior sexual conduct, unless evidence about the complainant’s prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant’s prior sexual conduct with the respondent that is offered to prove consent to alleged sex-based harassment. The fact of prior consensual sexual conduct between the parties does not by itself demonstrate or imply the complainant’s consent to other sexual activity or preclude a determination that prohibited conduct occurred. Under New York State law, parties have the right to exclude their own prior sexual history with persons other than the other party in the investigation and decision-making process or their own mental health diagnosis and/or treatment from admittance in the institution disciplinary stage that determines responsibility, with the exceptions described in this paragraph.



### *Public Awareness Events*

The Title IX Coordinator is not obligated to act in response to a report of sex-based harassment disclosed at a public awareness event that takes place on-campus or in a school-sponsored online platform unless there is an imminent and serious threat to someone's health or safety. However, in all cases the Institute must use this information to inform its efforts to prevent sex-based harassment, including by providing tailored training to address alleged sex-based harassment in a particular part of its education program or activity or at a specific location when information indicates there may be multiple incidents of sex-based harassment.

### B. Advisors and Emotional Support Persons

#### *Advisors*

In matters involving a student as the complainant or respondent, each party will have the right to choose and consult with an advisor of their choice at their own expense. The advisor may be any person, including but limited to a friend, family member, advocate, or attorney. Parties in those matters may be accompanied by an advisor of their choice at any meeting or proceeding to which they are required or eligible to attend.

Except where explicitly stated in this policy, advisors will not participate directly in the process. An advisor may not represent, advocate, or speak on behalf of a complainant or respondent. An advisor also may not disrupt or impede any meeting or proceeding occurring under the processes and procedures this policy.

Advisors may not attend meetings or proceedings in which the party who is their advisee is not participating.

#### *Emotional Support Persons*

In matters involving a student as the complainant or respondent, each party will also have the right to be accompanied by one emotional support person of their choice at any meeting or proceeding to which they are required or eligible to attend. The emotional support person must be a friend or family member of the party and must not be a witness in the underlying complaint proceeding.

The emotional support person may not participate in any meeting or proceeding; rather, the emotional support person is intended solely to observe and provide emotional support to the party they accompany.

## C. Process for Responding to a Report

### *Initial Assessment*

Upon receipt of a report of a possible violation of this policy, a Title IX Coordinator or designee will contact the complainant to offer to conduct an initial intake and assessment meeting and to discuss the availability of supportive measures.

The initial assessment process seeks to gather information about the nature and circumstances of the report to determine whether this policy applies to the report and, if so, which resolution process may be appropriate, as well as which section of the resolution procedures apply based on the conduct and the status of the parties. The Title IX Coordinator may also determine that the provision of supportive measures only is the appropriate response under the policy.

The initial assessment is not a finding of fact or responsibility. If the individual bringing forward the complaint is not the actual complainant, the Title IX Coordinator will limit communication to general information on policies and processes.

Should the complainant wish to initiate a resolution process, the Title IX Coordinator will determine whether this policy applies and, if so, the appropriate process under this policy. The Title IX Coordinator will communicate to the complainant this determination.

If the information provided does not suggest a potential violation of this policy, the Title IX Coordinator will provide the complainant written notice that the matter is being referred for handling under a different policy, and/or to another appropriate office for handling.

During the intake and assessment process, a Title IX Coordinator or designee will provide the complainant the following:

- An invitation to meet to offer assistance and explain their rights, resources, and options under this policy;
- Access to this policy;
- Information regarding available campus and community resources for counseling, health care, mental health, or victim advocacy;
- The availability of supportive measures regardless of whether a complaint is filed and/or any resolution is initiated;
- The options for resolution and how to initiate resolution processes;
- Advisement of the right to notify law enforcement or to choose not to notify law enforcement;
- Advisement of the importance of preserving evidence and, in the case of potential criminal misconduct, how to get assistance from Public Safety or local law enforcement in preserving evidence;
- The right of students to choose to participate or not participate in any part of the investigation or resolution processes;<sup>3</sup>

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<sup>3</sup> Employees of Rensselaer may be required to participate in investigation and/or resolution processes under this Policy.

- The right, in complaints of sex-based harassment involving a student as a complainant or respondent, to be accompanied by an advisor of choice during Institute proceedings under this policy including the initial meeting with the Title IX Coordinator;
- A statement that retaliation for filing a complaint, or participating in the complaint process, is prohibited;
- Information on how to initiate Investigative and/or Informal Resolution processes.
- A written explanation of available resources and options, and an opportunity to meet and discuss the resources and options, including information about sexually transmitted infections (STI's), forensic exams, and resources available through NYS Office of Victim Services.

### *Requests for Confidentiality or No Action*

When a complainant requests that the Institute not use their name as part of any resolution process, or that the Institute not take any further action, the Institute will generally try to honor those requests. However, there are certain instances in which the Institute has a broader obligation to the community and may need to act against the wishes of the complainant. In such circumstances, the Title IX Coordinator will notify the complainant in writing of the need to take action. The factors the Title IX Coordinator will consider when determining whether to act against the wishes of a complainant include:

1. The complainant's request not to proceed with initiation of a complaint;
2. The complainant's reasonable safety concerns regarding initiation of a complaint;
3. The risk that additional acts of prohibited conduct would occur if a complaint is not initiated;
4. The severity of the alleged prohibited conduct, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
5. The age and relationship of the parties, including whether the respondent is an employee of the Institute, or whether the impacted person is a minor;
6. The scope of the alleged discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
7. The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred;
8. Whether the Institute could end the alleged sex discrimination and prevent its recurrence without initiating its resolution procedures under this policy;
9. Whether the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other persons, or that the conduct as alleged prevents

- the Institute from ensuring equal access on the basis of sex to its education program or activity;
10. Whether the accused has a history of violent behavior or is a repeat offender;
  11. Whether the incident represents an escalation on the part of the person accused;
  12. Whether the accused used a weapon or force; and
  13. Whether available information reveals a pattern of perpetration at a given location by a particular group.

### *Consolidation of Cases*

Rensselaer may consolidate complaints under this policy as appropriate: for example, if there are multiple complaints where the allegations of prohibited conduct arise out of the same facts or circumstances, or there are multiple complaints with overlapping parties.

Rensselaer also reserves the right to use this policy to adjudicate other allegations and conduct charges as defined by policies outside of the scope of this policy in instances when the conduct is associated with an alleged issue of prohibited conduct under this policy. The Title IX Coordinator will address these consolidated complaints in collaboration and coordination with other appropriate offices, such as the Dean of Students Office and Division of Human Resources. Allegations of a violation of a separate policy are not required to be handled using the procedural requirements set forth in this policy.

### *Rules of Decorum*

Title IX proceedings are intended to be primarily educational and administrative in nature. Rensselaer is committed to maintaining a safe and healthy learning, living, and working environment that supports the Institute's educational mission.

To achieve those purposes, Rensselaer requires that all parties, advisors, witnesses, and other participants in all meetings and proceedings under this policy treat others engaged in the process with dignity and respect.

- No participant may act abusively or disrespectfully toward any other participant;
- Participants may not yell, scream, or badger any other participant;
- Participants may not take any action during proceedings that a reasonable person in the shoes of the affected individual would understand as intended to intimidate the recipient;
- Participants must not direct profanity or irrelevant personal attacks at other participants; and
- All participants are expected to refer to others using the name, gender, and pronouns used by that person.

These expectations are applied equally to all parties, advisors, and witnesses. The Institute reserves the discretion to remove, with or without prior warning, from any meeting or proceeding an involved party, witness, or advisor who does not comply with these expectations and any other Institute rules.

### *Referrals for Other Misconduct*

Rensselaer has the discretion to refer complaints of misconduct not covered by this policy for handling under any other applicable Institute policy or code. As part of any such referral for further handling, Rensselaer may use evidence already gathered through any process covered by this policy.

Should there be a conflict between the provision of this policy and other Institute policies, procedures, rules, regulations, or terms or conditions of employment, the provisions of this policy will govern unless specifically stated otherwise.

This policy and these procedures are separate from Rensselaer's student disciplinary processes by which the Institute may initiate a disciplinary charge against a student for violating another Institute policy according to the provisions of the *Rensselaer Handbook of Student Rights and Responsibilities*. This policy and these procedures are also separate from Rensselaer's employee disciplinary processes by which the Institute may pursue disciplinary action against an employee for violating another Institute policy according to the provisions of the *Human Resources Policy Guidelines* and/or the *Rensselaer Faculty Handbook*.

## D. Emergency Removal and Administrative Leave

### *Emergency Removal of a Student*

Rensselaer retains the authority to remove a student respondent from the Institute's program or activity on an emergency basis, where the Institute (1) undertakes an individualized safety and risk analysis, (2) determines that an immediate and serious threat to the health or safety of a complainant or any student, employee, or other individual arising from the allegations of sex discrimination justifies a removal, and (3) the Institute provides the respondent with notice of and an opportunity to challenge the decision immediately following the removal.

The respondent may challenge the decision immediately following the removal, by notifying the Title IX Coordinator in writing. The Institute will designate an impartial individual, not otherwise involved in the case, to consider the challenge to the removal and determine if the emergency removal was reasonable.

Nothing in this policy is intended to limit the other bases and procedures for interim suspensions or removals of students contained within the *Rensselaer Handbook of Student Rights and Responsibilities* or other applicable Institute policy.

### *Administrative Leave*

Rensselaer retains the authority to place an employee respondent on administrative leave during the pendency of a complaint process under this policy as appropriate. Administrative leave may be utilized at Rensselaer's discretion as a supportive measure, an emergency removal, or otherwise consistent with applicable law.

### E. Transcript Notations and Student Withdrawal or Employee Separation

#### *Transcript Notations*

It is the policy of Rensselaer Polytechnic Institute that students who are found in violation of the Title IX/Sexual Misconduct Policy and receive the sanction of 'Expulsion' or 'Suspension' will have a notation on their official transcript of Rensselaer. (See *Rensselaer Handbook of Student Rights and Responsibilities*).

A student who is found responsible for a violation of the Title IX/Sexual Misconduct Policy, or rules of conduct set forth in the *Handbook of Student Rights and Responsibilities* or other policies of Rensselaer Polytechnic Institute, withdraws from the Institute before the implementation of a sanction of Expulsion or Suspension, while such conduct charges are pending, and declines to complete the disciplinary process, will have a notation on their official transcript of Rensselaer.

Transcript notations for expulsion shall not be removed from a student's transcript, unless such expulsion is vacated for any reason. Transcript notations for suspension may be removed after one year after conclusion of the suspension by the student submitting an appeal to the Vice Provost of Student Experience requesting removal of such notation. The decision of the Vice Provost of Student Experience is final and not subject to appeal. Requests for removal of transcript notations for suspension may be submitted annually thereafter or until the student graduates, whichever is greater. Notations regarding suspensions will also be removed if such suspension is vacated for any reason."

#### *Student Withdrawal or Employee Separation*

If a student respondent permanently withdraws or an employee respondent resigns or otherwise separates from the Institute with unresolved allegations pending, the Institute will consider whether and how to proceed with the resolution process. The Institute will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s) and any ongoing effects of the alleged prohibited conduct.

A student respondent who withdraws or is no longer enrolled while the process is pending may not return to the Institute without first resolving any pending matters. Such exclusion applies to all Institute campuses and programs. Admissions and/or other appropriate Institute department(s) or official(s) will be notified that the student cannot be readmitted. They may also be barred from Institute property or events. If a student respondent withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely, and that student is not permitted to return to the Institute unless and until the matter is fully resolved.

A student respondent may also be subject to a “Records Hold” pending the resolution of a disciplinary matter under this policy pursuant to the provisions of the *Rensselaer Handbook of Student Rights and Responsibilities*.

An employee respondent who resigns or otherwise separates from the Institute with unresolved allegations pending is not eligible for rehire with Institute and the records retained by the Title IX Coordinator will reflect that status. Institute responses to future inquiries regarding employment references for that individual may include that the former employee resigned during a pending disciplinary matter.

## **VII. OPTIONS FOR RESOLUTION**

There are multiple ways to resolve a report or complaint of sex discrimination. Whenever possible, the Institute will utilize the resolution method chosen by the complainant. During the resolution of a complaint, the Title IX Coordinator will determine whether to implement reasonable supportive measures designed to assist all parties (complainants and respondents) and any other affected individuals in maintaining access to and participation in Institute programs, services, and activities during the resolution of the report or complaint.

This section includes information on Support-Based Resolution, Informal Resolution, and Formal Investigative Resolution. Information regarding the dismissal of complaints can be found in Section VIII of this policy.

### **A. Support-Based Resolution**

A Support-Based Resolution is an option for a complainant who does not wish the Institute to take any further steps to address their concern, and when the Title IX Coordinator determines that another form of resolution, or further action, is not required. The Institute will instead offer supportive measures as appropriate. Such measures include but are not limited to adjustments or changes to the complainant's class schedule or residence hall assignment, adjusted deadlines for projects or assignments, adjustments to work schedules or arrangements, safety escorts around campus as available, and/or counseling.

A Support-Based Resolution does not preclude later use of another form of resolution. Examples of reasons for later using another form of resolution include: if new information becomes available to the Institute and the Title IX Coordinator determines there is a need for additional steps to be taken; or if the complainant later decides to pursue an Informal Resolution or Formal Investigative Resolution of their complaint.

### **B. Informal Resolution**

Informal Resolution is an alternative to investigation and decision-making procedures in which the parties voluntarily agree to resolve the complaint in a way that does not include an investigation and does not include any finding of responsibility. Informal Resolution is a voluntary, structured process that may include strategies such as mediation and is intended to balance support with accountability.

The Title IX Coordinator must approve of the use of the Informal Resolution process and approve the final agreement between the parties. The Title IX Coordinator has the discretion to determine that Informal Resolution is not an appropriate way to address the reported conduct and that the matter must instead be resolved through Formal Investigative Resolution.



Informal Resolution may be initiated at any time prior to the release of the final determination under the procedures provided in this policy of whether sex discrimination occurred. Parties and the Title IX Coordinator may agree to pause or exit Formal Investigative Resolution procedures to explore Informal Resolution.

If the Institute offers Informal Resolution to the parties and they voluntarily consent to engage in that process, the Title IX Coordinator must still take other prompt and effective steps to ensure that sex discrimination does not continue or recur within the education program or activity.

Procedures for the Informal Resolution process are located in Appendix B of this policy.

### C. Formal Investigative Resolution

Formal Investigative Resolution under this policy includes two different procedures:

1. Procedures for all prohibited conduct **except** sex-based harassment involving a student as the complainant or respondent, found in Appendix C of this policy; and
2. Procedures for sex-based harassment involving a student as the complainant or respondent, found in Appendix D of this policy.

#### *Conflict of Interest or Bias in Formal Investigative Resolutions*

Under both procedures for Formal Investigative Resolution, after a Notice of Investigation is issued to all parties, any party may object to the participation of a Title IX Coordinator or designated investigator on the grounds of a demonstrated bias or actual conflict of interest. All parties will have three (3) days from the date of the Notice of Investigation to object to the selection of the investigator or the Title IX Coordinator.

Objections to the participation of the Title IX Coordinator are to be made in writing to the Vice President for Human Resources. Objections to the appointment of the investigator are to be made in writing to the Title IX Coordinator. All objections will be considered, and changes will be made as appropriate in the judgment of the Vice President for Human Resources and Title IX Coordinator, respectively.

If the objection is substantiated as to either the Title IX Coordinator or the investigator, that individual shall be replaced, and any change will be communicated in writing to the parties.

#### *Written Notice of Meetings*

Under both Formal Investigative Resolution procedures, the Institute will provide to a party or witness whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time to prepare to participate.

## VIII. DISMISSAL

### A. Bases for Dismissal

Rensselaer may dismiss a complaint if:

- Rensselaer is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the Institute's education program or activity and is not employed by the Institute;
- The complainant voluntarily withdraws their complaint in writing and the Title IX Coordinator declines to initiate a complaint;
- The complainant voluntarily withdraws some but not all allegations in a complaint in writing, and the Institute determines that the conduct that remains alleged in the complaint would not constitute prohibited conduct under this policy; and/or
- Rensselaer determines the conduct alleged in the complaint, even if proven, would not constitute prohibited conduct under this policy.

### B. Dismissal Procedures

Before dismissing a complaint because it would not constitute prohibited conduct if proven, Rensselaer will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the Institute will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the Institute will notify the parties simultaneously in writing. If a dismissal of one or more allegations changes the appropriate decision-making process under these procedures, the Title IX Coordinator will include that information in the notification.

When a complaint is dismissed, Rensselaer will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other steps, through the Title IX Coordinator, that may be warranted based on the complaint to help prevent sex discrimination within the Institute's education program or activity.

A complainant who decides to withdraw a complaint or any portion of it may later request to reinstate it or refile it.

### C. Appeals of Dismissals

Rensselaer will notify the complainant that a dismissal may be appealed on the bases outlined in the Appeals section. If dismissal occurs after the respondent has been notified of the allegations, then the Institute will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, the Institute will follow the process outlined in Section X of this policy, *Appeals*.

## **IX. DISCIPLINARY SANCTIONS**

One or more of the sanctions or disciplinary steps listed here may be imposed on a respondent who is found responsible for a violation of the Institute's policies. Sanctions or disciplinary steps not listed below may be imposed in consultation with the Title IX Coordinator for conduct that does not constitute sexual assault, dating violence, domestic violence, or stalking as defined by the VAWA amendments to the Clery Act.

### A. Determining Sanctions

The form of sanction or discipline used will depend on the nature of the offense, as well as any prior disciplinary history. Such discipline or sanction will be imposed pursuant to and in accordance with any and all applicable Institute rules, policies, and procedures. Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation;
- An individual's disciplinary history;
- Previous resolutions or allegations involving similar conduct;
- The need for sanctions/responsive actions to bring an end to the sex discrimination or retaliation;
- The need for sanctions/responsive actions to prevent the future recurrence of sex discrimination or retaliation;
- The need to remedy the effects of the sex discrimination or retaliation on the victim and the campus community.

Disciplinary sanctions will be determined by the Vice Provost of Student Experience when the respondent is a student. When the respondent is an employee, sanctions will be determined by the Vice President, Vice Provost, or Dean of the school or division in which they are appointed.

### B. Implementation of Disciplinary Sanctions

Student sanctions imposed are implemented when the decision is final (after an appeal, or, if there was no appeal, after the appeals period expires).

Faculty found responsible for violating this policy may be referred to the appropriate academic official for any other applicable processes.

### C. List of Disciplinary Sanctions

Rensselaer may impose one or more of the following disciplinary sanctions on a respondent determined to have engaged in prohibited conduct in violation of this policy:

(1) *Service Hours*: A set number of work hours the respondent must complete. The Title IX Coordinator will determine the nature of the work to be performed. Generally, service hours are conducted on campus.

(2) *Educational Program/Project*: Programs and activities designed to help the respondent become more aware of Institute policies and prohibited behavior in an attempt to help the respondent understand the inappropriateness of their conduct, including, but not limited to, participation in an educational program or completion of an online program.

(3) *Referral for Counseling*: A referral for an assessment with an appropriately trained therapist or other healthcare professional and a mandate to follow any recommendations resulting from the counseling.

(4) *Loss of Privileges*: Denial of specific privilege(s) as defined by the Title IX Coordinator for a defined period of time. Privileges include, but are not limited to, participation in extracurricular activities and events such as social events, intercollegiate athletics, intramural programs, student organizations, and student government.

(5) *Restricted Access*: Conditions which specifically dictate and limit the respondent's presence on campus and/or participation in Institute-sponsored activities or events. The restrictions will be clearly defined and may include, but are not limited to, student housing and presence in certain buildings or locations on campus.

(6) *Removal of Offending Cause*: Requirement to remove the item which was the subject of the Complaint.

(7) *Relocation*: Requirement that the respondent relocate to another residence hall, or off campus, by a specified date.

(8) *Reprimand/Warning*: Written notice that the respondent's behavior was in violation of the Institute's Title IX and Sexual Misconduct Policy and that future violations will result in more severe sanctions.

(9) *Fine*: A monetary penalty assessed as appropriate to the violation.

(10) *Conduct Probation*: Formal, written notice that the respondent's behavior is in violation of the Institute's Title IX and Sexual Misconduct policy and an expectation that the respondent exhibit good behavior for a defined period of time. Any violation during the probationary period may result in suspension from the Institute if it is determined that the nature and circumstances of the subsequent violation warrants such action.

(11) *Disciplinary Probation*: Formal and final notice compelling the respondent to exhibit good behavior for a defined period of time. Any violation during the probationary period will generally result in suspension or expulsion from the Institute.

(12) *Dismissal or Restriction from Institute Employment*: Conditions which specifically dictate and limit the respondent's ability to seek and obtain on-campus employment. The restrictions will be clearly defined.

(13) *Admission Revocation*. Revocation of a student's letter of admission to a Rensselaer undergraduate, graduate, professional, certificate, or other education program.

(14) *Suspension*: Separation from the Institute for a defined period of time. During the suspension period the respondent is not permitted on campus and is not permitted to participate in any Institute- sponsored or affiliated program or activity. The terms of the suspension may include the designation of special conditions affecting eligibility for readmission or special conditions to be in effect upon readmission. In the case of an employee, the suspension is without pay.

(15) *Expulsion*: Permanent separation from the Institute without possibility of re-admission. A respondent who has been expelled is not permitted on campus and is not permitted to participate in any Institute- sponsored or affiliated program or activity.

(16) *Termination of employment*.

(17) *Revocation or Limitation of Alumni Privileges*: Denial of specific privilege(s) as defined by the Title IX Coordinator for a defined period of time.

(16) *Revocation of Degree*: Upon approval of the President of the Institute, a graduate's degree or degrees may be revoked and the graduate will be requested to return their diploma or diplomas. As necessary, the graduate's official transcript and other relevant Rensselaer documents will be corrected to reflect this action. In addition, the dissertation (master's/senior thesis) will be removed from the Institute's Library and other scholarly repositories.

## **X. APPEALS**

### **A. Bases for Appeal**

Appeals may be filed only on the following four grounds:

1. **Procedural Error**: A procedural error occurred that would change the outcome. A description of the error and its impact on the outcome of the case must be included in the written appeal;
2. **New Evidence**: New evidence that would change the outcome and that was not reasonably available when the determination whether sex discrimination occurred, or dismissal was made. Information that was known to the party during the resolution process but which they chose not to present is not considered new information. The new evidence, an explanation as to why the evidence was not previously available or known, and an explanation of its potential impact on the investigation findings must be included in the written appeal;
3. **Actual Conflict of Interest or Demonstrated Bias**: The Title IX Coordinator, investigator, or Hearing Panel member(s) had an actual conflict of interest or demonstrated bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome. Any evidence supporting the alleged conflict of interest or demonstrated bias must be included in the written appeal; and/or
4. **Sanction(s) not Appropriate to the Violation(s)**: A description of the sanction(s) to which the party objects and the basis for the appellant's assertion that the sanction(s) is inappropriate must be included.

### **B. Appeal Procedures**

Dismissals of complaints and determinations made in the investigation and decision-making processes may be appealed by either party. The appeal should be sent to the Title IX Coordinator, who will then send the appeal to the Title IX Appeal Board to conduct a review of the appeal(s) and determine whether it is properly filed.

Appeals must be in writing and must articulate the basis(es) and factual reason(s) for the appeal. Appeals must be filed within five (5) days following the issuance of the outcome letter.

When an appeal is filed, the other party shall be notified and provided with a copy of the filed appeal and have five (5) days to respond to the appeal in writing. Any party's decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal.

The Title IX Coordinator will notify both parties of the identity of the Title IX Appeal Board members, and both parties will have three (3) days to submit any objection to specific Appeal Board member(s) on the basis of an actual bias or conflict of interest. Any objection is to be submitted in writing to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator will appoint another Appeal Board member.

Upon request of the Title IX Appeal Board, the Title IX Coordinator will provide the Board with access to any part, or the entirety, of the written record of the matter to that point. If the Title IX Appeal Board determines the appeal is properly filed, they will then consider the appeal on its merits, make a determination, and communicate that decision, along with a rationale for the decision, to the Title IX Coordinator who will communicate the panel's decision to the parties.

### C. Title IX Appeal Board

The Title IX Appeal Board will consist of three members appointed by Rensselaer. Members of the Title IX Appeal Board may be Rensselaer faculty or staff or external professionals.

### D. Final Appeal

A party who disagrees with the determination of the Title IX Appeal Board may request a final review by the Provost, when the respondent is a student or faculty member, or the Vice President for Human Resources, when the respondent is staff or another member of the Rensselaer community.

Such a review must be requested in writing, must include the appellant's rationale for requesting review, and must be submitted to the Title IX Coordinator within five (5) days of the notice of the Title IX Appeal Board's decision. The Title IX Coordinator will then provide the written appeal to the other party, who will have five (5) days to respond to the appeal in writing.

The Title IX Coordinator will present the written submissions of the parties to the Provost or Vice President for Human Resources, as appropriate. If they choose to accept and consider the appeal on its merits, the Provost's or Vice President's review may be, at their discretion, based solely on the written record of the matter to that point, including the Title IX Appeal Board's determination and the appellant's letter of final appeal.

The Provost's or Vice President for Human Resources' decision will be communicated to the parties in writing, and is final.



## **XI. PROHIBITION OF RETALIATION**

Retaliation is any materially adverse action taken against an individual because they were involved in the disclosure, reporting, investigation, or resolution of a report of prohibited conduct under this policy.

Retaliation includes adverse employment or academic actions, threats, intimidation, harassment, coercion, discrimination, or violence against any person by the Institute, a student, or an employee or other person authorized by the Institute to provide aid, benefit, or service under the Institute's education program or activity, for the purpose of interfering with any right or privilege secured by this policy or by law, including Title IX or its regulations. Adverse action does not include perceived petty slights, or trivial annoyances.

Retaliation is prohibited against any individual who participates (or refuses to participate) in any manner in an investigation, proceeding, hearing, or resolution.

Retaliation may occur even where there is a finding of "not responsible" under this policy. Good faith actions lawfully pursued in response to a report of prohibited conduct are not Retaliation.

## **XII. ADDITIONAL ENFORCEMENT INFORMATION**

The U.S. Department of Education, Office for Civil Rights (OCR) investigates complaints of unlawful discrimination and harassment of students and employees in education programs or activities.

The U.S. Equal Employment Opportunity Commission (EEOC) investigates reports of unlawful harassment and discrimination, including sex-based harassment, in employment.

The New York State Division of Human Rights (NYSDHR) investigates complaints of unlawful discrimination and harassment, including sex-based harassment, in employment by New York State employers.

For more information, contact the nearest office of the OCR, EEOC, or NYSDHR:

US Department of Education  
Office for Civil Rights  
New York Office  
32 Old Slip, 26th Floor  
New York, NY 10005-2500  
Telephone: 646-428-3800  
FAX: 646-428-3843; TDD: 800-877-8339  
Email: OCR.NewYork@ed.gov

U.S. Equal Employment Opportunity Commission (EEOC)  
Telephone: 800-669-4000 (TTY 1-800-669-6820)  
Email: [info@eeoc.gov](mailto:info@eeoc.gov)  
<https://www.eeoc.gov/contact-eeoc>

New York State Division of Human Rights  
Agency Building 1, 2<sup>nd</sup> Floor  
Empire State Plaza  
Albany, New York 12220  
Telephone: (518) 474-2705  
<https://www.dhr.ny.gov>

## **Appendix A – The Institute’s External Reporting Obligations for Sexual Misconduct**

### **The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (The “Clery Act”)**

**Statistical Reporting:** The Clery Act is a federal law requiring institutions of higher education to collect and report statistics on certain crimes in an annual Security Report. Certain Institute officials have a duty to provide the Department of Public Safety information regarding crimes when they are reported to them. All personally identifiable information is kept confidential, but statistical information regarding Clery reportable crimes must be shared, including the date and location of the incident (but not the specific address) and information about the reported crime to allow for proper classification. This report provides the community with information about the extent and nature of campus crimes, to ensure greater community safety.

Campus Security Authorities are required to inform the Department of Public Safety of crimes reported to them. The following individuals and organizations within Rensselaer are designated as Campus Security Authorities in accordance with the guideline set forth by the Clery Act: members of the Department of Public Safety; local law enforcement; Vice Provost for Student Experience; Dean of Students and Dean of Students Office professional staff including Director of Student Conduct; Residence Life professional staff and Residence Directors/Assistants; Rensselaer Union Administration professional staff and student activities staff; Director of Athletics, Athletic Administration and full/part- time Coaches; First Year Experience professional staff; Human Resources staff; Office of the Provost professional staff; advisors to student organizations; and any other official with significant responsibility for student and campus activities.

**Timely Warning:** Complainants should also be aware that Institute administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. A complainant’s name and other personally identifying information will not be disclosed. The reporters for timely warning purposes are exactly the same as detailed in the paragraph above.

### **Family Educational Rights and Privacy Act (FERPA)**

The outcome of a campus hearing is part of the educational record of an involved Rensselaer student. Generally speaking, the educational records of students are protected from release under a federal law, FERPA (20 U.S.C. § 1232g; 34 CFR Part 99). The Institute complies with FERPA regulations regarding the privacy of student records and observes the following exceptions to FERPA as mandated by the Clery Act:

- o The complainant(s) in a non-consensual sexual contact/intercourse incident has the right to be informed of the finding, and sanction(s) of the investigation or hearing, in writing, without condition or limitation.

- o The complainant(s) in a Sexual Misconduct or any other gender-based offense has the right to be informed of the finding, in writing, and to be informed of any sanction(s) that directly relate to them, and to essential facts supporting the outcome when the outcome is “responsible” (and the underlying offense is a crime of violence as defined below and in 34 C.F.R. 99.39) and/or it is equitable to share the essential findings with all parties.

The Clery Act permits the Institute to release publicly the name, nature of the violation and the sanction(s) for any student who is found in violation of an Institute policy that is also a "crime of violence," including: arson, burglary, robbery, criminal homicide, sex offenses, assault, intimidation (which may encompass stalking and/or bullying), hazing, destruction/ damage/ vandalism of property and kidnapping/abduction. The Institute will release this information to the complainant regarding any of these offenses.

FERPA allows for the release of student records beyond the Clery exceptions listed above. Some of those situations are listed below. For a full understanding of student rights and FERPA, please see the Institute’s FERPA policy <http://registrar.rpi.edu/setup.do>.

Student education records, including student conduct records, can be subpoenaed by a court of law. Information from a student’s education record may be released to a third party with the student’s permission. Pursuant to a signed release, third parties (including but not limited to, graduate schools, potential employers, parents of non-minors, etc.) may request information from a student’s education record.

## **Appendix B – Informal Resolution Procedures**

### **A. Initiating the Informal Resolution Process**

Prior to the initiation of the Informal Resolution process, the Title IX Coordinator will provide the parties written notice that includes:

- The specific allegation and the specific conduct that is alleged to have occurred;
- The requirements of the Informal Resolution process;
- Any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared, and whether the Institute could disclose such information for use in a future Institute resolution process, including a Formal Investigative Resolution process arising from the same or different allegations, as may be appropriate;
- Notice that an agreement resulting from the Informal Resolution process is binding only on the parties and is not subject to appeal;
- Notice that once the Informal Resolution Agreement is finalized and signed by the parties, they cannot initiate or continue a Formal Investigative Resolution process arising from the same allegations;
- A statement indicating that the decision to participate in the Informal Resolution process does not presume that the conduct at issue has occurred;
- A statement that the respondent is presumed not responsible for violating this policy, unless respondent admits to violations of this policy;
- An explanation that when a student is the complainant or respondent in a matter, all parties in that matter may be accompanied by an advisor of their choice, who may be a friend, family member, advocate, or attorney;
- A statement that any party has the right to withdraw from the Informal Resolution process and initiate or resume Formal Investigative Resolution procedures at any time before agreeing to an Informal Resolution;
- Information regarding supportive measures, which are available equally to the parties; and
- The potential terms that may be requested or offered in an Informal Resolution agreement.

Parties will also be provided written notice of the date and time of the initial meeting regarding Informal Resolution with the Title IX Coordinator or designated facilitator, with a minimum of three (3) days' notice.

## B. Facilitating an Agreement

If all parties are willing to explore an Informal Resolution, the Title IX Coordinator or designated facilitator will then meet separately with each party to discuss the Informal Resolution process and facilitate an agreement. If an agreement cannot be reached because the parties do not agree, a party determines they no longer wish to participate in the Informal Resolution process, or the Title IX Coordinator does not believe that the terms of the agreement or continuing the Informal Resolution process is appropriate, the reported conduct will instead be addressed through other resolution processes described in this policy, and the Title IX Coordinator will inform each of the parties accordingly.

Informal Resolution processes are managed by facilitators who do not have a conflict of interest or demonstrated bias regarding the parties in the matter or for or against complainants or respondents generally. A Title IX Coordinator may serve as the facilitator, subject to this restriction. The investigator or decisionmaker for the matter may not facilitate an Informal Resolution in that same matter.

Any party may craft or create terms of their agreement and will be asked for their suggestions or ideas. Examples of possible terms of agreements may include but are not limited to:

- An agreement that the respondent will change classes or housing assignments;
- An agreement that the respondent will refrain from participating in specific RPI organization(s), activity(ies), or event(s);
- An agreement that the parties will not communicate or otherwise engage with one another;
- An agreement that the parties will not contact one another;
- Completion of a training or educational project by the respondent;
- Completion of a community service project by the respondent;
- An agreement to engage in a restorative justice process or facilitated dialogue;
- Admission of responsibility for prohibited conduct; and/or
- Discipline agreed upon by all parties.

In order to facilitate Informal Resolution, information shared by any party during the Informal Resolution Process, including but not limited to any admission of responsibility, will not be used in any other resolution process of the same complaint under this policy. No evidence concerning the allegations obtained within the Informal Resolution process may be disseminated by the parties or their advisors to any outside person, provided that any party to the Informal

Resolution process may generally discuss the allegations under investigation with a parent, advisor, or other source of emotional support, or with an advocacy organization.<sup>4</sup>

### C. Finalizing the Informal Resolution Agreement

Once the final terms of the Informal Resolution Agreement have been agreed upon by all parties in writing and approved by the Title IX Coordinator, the matter will be considered closed, except with respect to future claims that a party has failed to comply with the terms of the Informal Resolution Agreement. Once the Informal Resolution Agreement is signed, no appeal is permitted. The Informal Resolution process is generally expected to be completed within thirty (30) days and may be extended by the Title IX Coordinator as appropriate. All parties will be notified in writing of any extension and the reason for the extension.

Records of an Informal Resolution process can be shared with other Institute offices as appropriate.

Any violations of the terms of the Informal Resolution Agreement may be reported to the Title IX Coordinator and may result in disciplinary action under this policy, the *Rensselaer Handbook of Student Rights and Responsibilities*, and/or the *Rensselaer Human Resources Policy Guidelines*.

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<sup>4</sup> Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

**Appendix C – Formal Investigative Resolution Procedures  
for all Sex Discrimination and other Prohibited Conduct *EXCEPT*  
Sex-Based Harassment Involving a Student as the Complainant or Respondent**

A. Notice of Investigation

Prior to the start of an investigation, the Parties will be provided a written Notice of Investigation communicating the initiation of an investigation as well as a copy of this policy. Should additional allegations or new information regarding location or date of the incident(s) arise, a revised written Notice of Investigation shall be provided to all parties.

The Notice shall include, at a minimum:

- Rensselaer’s resolution procedures, including the applicable determination procedure, and any alternative resolution process;
- The specific allegations, including the identity of the parties, and dates and location if known;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), a description of the facts alleged to constitute prohibited conduct, the type of prohibited conduct, and the date(s) and location(s) of the alleged incident(s);
- Information about Informal Resolution;
- A statement that retaliation is prohibited;
- Contact information for the assigned investigator/decisionmaker, as well as the process for raising a challenge to the appointed investigator/decisionmaker, or Title IX Coordinator, and the deadline for doing so;
- Expected length of the major stages of the resolution process, as well as any applicable deadlines;
- Notice that the investigator will serve as the decisionmaker;
- A statement that the respondent is presumed not responsible for prohibited conduct until a determination is made at the conclusion of the investigation and decision-making procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The parties may have an advisor of their choice who may be a friend, family member, advocate, or attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence, and to provide a response;



- A statement that the Institute prohibits knowingly making false statements or knowingly submitting false information during resolution procedures, with a link to the relevant policy(ies).

### B. Assignment of the Investigator/Decisionmaker

Rensselaer will assign a trained investigator to conduct an adequate, reliable, and impartial investigation in a reasonably prompt timeframe. The investigator will also act as the decisionmaker and determine whether the evidence supports a finding that sex discrimination occurred. The Institute reserves the right to assign Rensselaer employees and/or external professionals as investigators/decisionmakers.

All parties have the option to participate in the investigation and each have the same rights during the resolution process including the right to be accompanied by an advisor (only in matters involving a student as the complainant and/or respondent), to submit relevant witness names and evidence, and to review the evidence gathered by the investigator prior to the investigator finalizing their report and a determination being made.

The investigator will establish deadlines for submission of names of relevant witnesses and submission of evidence and communicate those deadlines to the parties in writing.

### C. Evidence Gathering

The investigator will conduct individual interviews of all parties and relevant witnesses who choose to participate<sup>5</sup> and gather relevant documentary evidence provided by the parties and witnesses.

Interviews may be conducted in person or via video conference. Parties will be provided a minimum of three (3) days' notice of any interview unless the party waives such notice. Only the witness or party being interviewed may be present during the interview, provided, however, that the party's advisor (when applicable) may attend the party's interview, and additional attendee(s) may be permitted at the discretion of the Title IX Coordinator in connection with an approved disability-related accommodation.

When a party meets with an investigator, the investigator will ask relevant and not otherwise impermissible questions and follow-up questions related to the allegations in the complaint, including questions exploring credibility. Parties will be given the opportunity to address the allegations and related events. Parties may identify fact witnesses and provide

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<sup>5</sup> Student parties and witnesses have a right to choose not to participate in an investigative interview or any other proceeding under this policy. Employees of Rensselaer may be required to participate in investigative interviews and other proceedings under this policy.

documentary evidence that is relevant to the allegations and not otherwise impermissible. This will include inculpatory evidence (that tends to show it more likely that someone committed a violation) and exculpatory evidence (that tends to show it less likely that someone committed a violation).

The investigator will determine, in their sole discretion, whether parties and witnesses are likely to provide relevant information about the allegations, and has the sole discretion to determine which parties and witnesses to call to an interview.

The investigator will gather all available relevant evidence from parties, witnesses, and other sources. The investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance. The investigator may conduct follow-up interviews as they deem appropriate. Character evidence that is not relevant will not be considered. Evidence provided by “expert” witnesses will not be considered.

All persons present at any time during any part of the investigation or resolution process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of those proceedings, and may be subject to further Institute discipline for failure to do so.<sup>6</sup> Rensselaer may require parties, advisors, and/or emotional support persons to sign a non-disclosure agreement that restricts review and use of this information to authorized purposes related to the complaint of sex discrimination.

#### D. Rules of Decorum

The Institute has stated its expectations of decorum to be observed at all times in any meeting or proceeding under this policy in Section VI(C), above. These expectations are applied equally to all parties, advisors, and witnesses. The Institute reserves the discretion to remove, with or without prior warning, from any meeting or proceeding an involved party, witness, or advisor who does not comply with these expectations and any other Institute rules.

#### E. Evidence Review

At the conclusion of all fact-gathering, the investigator will provide each party and their advisor, if any, the opportunity to review all relevant and not otherwise impermissible evidence gathered.

The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation and

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<sup>6</sup> Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

to submit any additional relevant evidence or the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence or names of witnesses. Given the sensitive nature of the information provided, the Institute will facilitate this review in a secure manner (e.g., by providing digital copies of the materials through a protected, “read-only” web portal). None of the parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.<sup>7</sup>

The parties will have a minimum of five (5) days to inspect and review the evidence and submit a written response in writing to the investigator. The Institute will provide access to copies of the parties’ written responses to the investigator to all parties and their advisors, if any. The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence. At the conclusion of the evidence review, when deemed appropriate by the investigator, the investigator may then conduct any additional fact-gathering as may be necessary. If new, relevant evidence is gathered during this second fact-gathering period, the new evidence will be made available for review by the parties and their advisors. The parties shall have five (5) days to provide a response to the newly-gathered evidence. No new evidence will be accepted as part of any response, except that the investigator shall have the discretion to accept relevant evidence that was not previously available or known to exist, and that was not previously discoverable with the exercise of reasonable diligence.

The investigator will consider the parties’ written responses before finalizing the investigation report.

The parties may each submit a written impact statement prior to the conclusion of the resolution process. The impact statement is not evidence and will be reviewed only after a determination of responsibility is reached.

#### F. Investigation Report and Determination

The investigator, who will also serve as the decisionmaker, shall evaluate the relevant and not impermissible evidence and make a factual determinations regarding each allegation, and also determine whether a violation of this policy (or, where applicable, other relevant Institute policy) occurred. The investigator may choose to place less or no weight upon statements by a party or witness who refused to respond to questions deemed relevant and not impermissible or declined to participate. The investigator will not draw an inference about whether prohibited conduct occurred based solely on a party’s or witness’s refusal to respond to questions.

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<sup>7</sup> Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

In making their determination regarding whether a respondent engaged in prohibited conduct occurred and/or violations of another Institute policy, the investigator/decisionmaker will make all findings based on the preponderance of evidence standard of proof. To the extent credibility determinations need to be made, such determinations shall not be based on a person's status as complainant, respondent, or witness.

The investigator shall prepare an investigative report which shall include:

- A description of the allegations of prohibited conduct;
- Information about the policies and procedures used to evaluate the allegations;
- An evaluation of the relevant and not otherwise impermissible evidence and the rationale for that evaluation;
- Findings of fact for each allegation;
- Conclusions regarding which section of this policy or other Rensselaer policy, if any, the respondent has or has not violated.

This report shall be provided to the Title IX Coordinator. In the event that the decisionmaker has determined that a violation of Institute policy has occurred, the Title IX Coordinator shall then provide the report to the appropriate Sanctioning Officer to determine the sanction, and the Title IX Coordinator shall then determine the appropriate remedy(ies) for the complainant and any impacted parties. Past findings of responsibility relating to this policy, or any other Rensselaer policy are admissible in the sanctioning stage only.

The appropriate Sanctioning Officers are as follows:

- Students – Vice Provost of Student Experience
- Employees – Vice President, Vice Provost, or Dean of the school or division in which they are appointed

The Title IX Coordinator shall then provide the parties and their advisors with a written Notice of Outcome and a copy of the investigation report. The Notice of Outcome shall include:

- A statement of, and rationale for, any disciplinary sanctions imposed on the respondent;
- A statement as to whether remedies will be provided to the complainant;
- For the complainant, a description of any remedies that apply to the complainant;
- The Institute's procedures and the permitted reasons for the parties to appeal, including identifying the Appeals Officer(s); and
- How to challenge participation by the Appeals Officer(s) for bias or conflict of interest, which the Title IX Coordinator will resolve in their sole discretion.

The determination regarding responsibility, and any disciplinary sanction(s), becomes final either on the date that the Institute provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

Procedures for Appeals can be found in Section X of this policy.

**Appendix D – Formal Investigative Resolution Procedures for  
Sex-Based Harassment involving a Student as Complainant or Respondent**

A. Notice of Investigation

Prior to the start of an investigation, the Parties will be provided a written Notice of Investigation communicating the initiation of an investigation as well as a copy of this policy. Should additional allegations or new information regarding location or date of the incident(s) arise, a revised written Notice of Investigation shall be provided to all parties.

The Notice shall include, at a minimum:

1. The Institute's investigation procedures, including the applicable determination procedure that will be used in this investigation and resolution, and a link to the relevant policies;
2. Information about Informal Resolution;
3. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), a description of the facts alleged to constitute prohibited conduct, the specific type of prohibited conduct alleged under the policy, and the date(s), time(s), and location(s) of the alleged incident(s);
4. A list of possible sanctions;
5. A statement that retaliation is prohibited;
6. Notice that a Title IX Hearing Panel will serve as the decisionmaker;
7. Expected length of the major stages of the resolution process, as well as any applicable deadlines;
8. The Notice will inform the parties that the investigator will establish and communicate, in writing, all investigation deadlines, including the final deadlines for submitting names of witnesses, evidence, and relevant questions to ask a party or witness. These deadlines may be extended by the Title IX Coordinator for good cause, and any changes will be provided, in writing, to the parties, along with the rationale for the revised deadline(s);
9. The process for raising a challenge to the appointed investigator, Title IX Hearing Panel members, or Title IX Coordinator, and the deadline for doing so;
10. A statement that the respondent is presumed not responsible for prohibited conduct until a determination is made at the conclusion of the resolution process. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
11. A statement that the parties may have an advisor of their choice who may be a friend, family member, advocate, or attorney;
12. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigation report that accurately summarizes this evidence, and if an investigation report is provided, equal opportunity to access the relevant and not impermissible evidence upon request; and

13. A statement that the *Rensselaer Handbook of Student Rights and Responsibilities* and the *Rensselaer Human Resources Policy Guidelines* prohibit knowingly making false statements or knowingly submitting false information during resolution procedures.

#### B. Assignment of the Investigator and Decisionmaker

Rensselaer will assign a trained investigator to conduct an adequate, reliable, and impartial investigation in a reasonably prompt timeframe. Rensselaer will also appoint three (3) trained individuals to a Title IX Hearing Panel, which will act as the decisionmaker and determine whether the evidence supports a finding that sex discrimination occurred. The Institute reserves the right to assign Rensselaer employees and/or external professionals as investigators. Members of the Hearing Panel will be appointed by the Title IX Coordinator or designee and may be Rensselaer employees (including Title IX staff who have not served as investigator or Informal Resolution facilitator in the matter) or external professionals.

All parties have the option to participate in the investigation and each have the same rights during the resolution process including the right to be accompanied by an advisor, to submit relevant witness names and evidence, and to review the evidence gathered by the investigator prior to the investigator finalizing their report and a determination being made.

The investigator will establish deadlines for submission of names of relevant witnesses and submission of evidence and communicate those deadlines to the parties in writing.

#### C. Evidence Gathering

The investigator will conduct individual interviews of all parties and relevant witnesses who choose to participate<sup>8</sup> and gather relevant documentary evidence provided by the parties and witnesses.

Interviews may be conducted in person or via video conference. Parties will be provided a minimum of three (3) days written notice of any interview unless the party waives such notice. Only the witness or party being interviewed may be present during the interview, provided, however, that the party's advisor and emotional support person may attend the party's interview, and additional attendee(s) may be permitted at the discretion of the Title IX Coordinator in connection with an approved disability-related accommodation.

When a party meets with an investigator, the investigator will ask relevant and not otherwise impermissible questions and follow-up questions related to the allegations in the complaint, including questions exploring credibility. Parties will be given the opportunity to

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<sup>8</sup> Student parties and witnesses have a right to choose not to participate in an investigative interview or any other proceeding under this policy. Employees of Rensselaer may be required to participate in investigative interviews and other proceedings under this policy.

address the allegations and related events. Parties may identify fact witnesses and provide documentary evidence that is relevant to the allegations and not otherwise impermissible. This will include inculpatory evidence (that tends to show it more likely that someone committed a violation) and exculpatory evidence (that tends to show it less likely that someone committed a violation).

The investigator will determine, in their sole discretion, whether parties and witnesses are likely to provide relevant information about the allegations, and has the sole discretion to determine which parties and witnesses to call to an interview. The investigator may conduct follow-up interviews as they deem appropriate.

All persons present at any time during any part of the investigation or resolution process are expected to maintain the privacy of the proceedings and not discuss or otherwise share any information learned as part of those proceedings, and may be subject to further Institute discipline for failure to do so.<sup>9</sup>

The investigator will gather all available relevant evidence from parties, witnesses, and other sources. The investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance. Character evidence that is not relevant will not be considered. Evidence provided by “expert” witnesses that is not relevant will not be considered.

#### D. Rules of Decorum

The Institute has stated its expectations of decorum to be observed at all times in any meeting or proceeding under this policy in Section VI(C), above. These expectations are applied equally to all parties, advisors, and witnesses. The Institute reserves the discretion to remove, with or without prior warning, from any meeting or proceeding an involved party, witness, or advisor who does not comply with these expectations and any other Institute rules.

#### E. Evidence Review

At the conclusion of all fact-gathering, the Title IX Coordinator or investigator will provide each party and their advisor the opportunity to review all relevant and not otherwise impermissible evidence gathered. In the event that an audio or audiovisual recording is shared, the recording will only be made available at an in-person and monitored meeting on campus, and will not otherwise be transmitted for review, so as to maintain the privacy of those participating in the process.

The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation and

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<sup>9</sup> Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

to submit any additional relevant evidence, questions for parties or witnesses, or the names of any additional witnesses with relevant information. This is the final opportunity to offer evidence or names of witnesses. Evidence not provided during the investigation process will generally not be considered by the Hearing Panel.

Given the sensitive nature of the information provided, the Institute will facilitate this review in a secure manner (e.g., by providing digital copies of the materials through a protected, “read-only” web portal). None of the parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.<sup>10</sup> Rensselaer may require parties, advisors, and/or emotional support persons to sign a non-disclosure agreement that restricts review and use of this information to authorized purposes related to the complaint of sex discrimination.

The parties will have a minimum of five (5) days to inspect and review the evidence and draft investigative report and to submit a written response in writing to the investigator. The Title IX Coordinator shall have the discretion to extend the evidence review period based on the volume and nature of the evidence.

The investigator will consider the parties’ written responses before finalizing the investigation report. When deemed appropriate by the investigator, the investigator may conduct additional fact gathering and include that additional evidence in their final investigation report. Both parties will have an opportunity to respond in writing to the report and any additional evidence gathered prior to the hearing.

#### F. Notice of Hearing

Following the conclusion of the investigation, each party shall be provided with a Notice of Hearing, which shall include information regarding the date of the hearing, the identity of the members of the Hearing Panel, the process to be used at the hearing, and deadlines for submission of written responses to the final investigation report.

Within three (3) days of receipt of the Notice of Hearing, either party may, if applicable, object to any member(s) of the Hearing Panel on the basis of a demonstrated bias or actual conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator shall remove the Hearing Panel member(s) and appoint another.

The hearing shall be scheduled no less than ten (10) days from the date of the Notice of Hearing. During the time between the date of the Notice of Hearing and the date of the hearing,

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<sup>10</sup> Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.



the parties and their advisors will be provided the opportunity to review all relevant and not otherwise impermissible evidence gathered, including the final investigative report and any additional evidence gathered after the initial evidence review. In the event that an audio or audiovisual recording is shared, the recording will only be made available at an in-person and monitored meeting on campus, and will not otherwise be transmitted for review, so as to maintain the privacy of those participating in the process. Given the sensitive nature of the information provided, the Institute will facilitate this review in a secure manner (e.g., by providing digital copies of the materials through a protected, “read-only” web portal). None of the parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any advisor who fails to abide by this may be subject to discipline and/or may be excluded from further participation in the process.<sup>11</sup>

#### G. Prior to the Hearing

The purpose of a hearing is for a Hearing Panel to determine whether the conduct occurred as alleged, and if so, whether that conduct violated this policy. The Institute expects that all individuals who participate in the hearing process to do so truthfully and expects that all individuals who have a responsibility for carrying out one or more aspects of the hearing process to do so fairly and without prejudice or bias. Hearings may be conducted in person or via videoconferencing, at the discretion of the Title IX Coordinator. The Title IX Coordinator may determine that the hearing will continue in the absence of any party or any witness.

The Hearing Panel shall have the authority to determine the relevance of evidence submitted, and of questions asked, to limit the time allotted to any phase of the hearing, and/or to limit the time allotted to the full hearing.

The parties and the Hearing Panel have a right to call witnesses. Witnesses participating in the hearing must have information relevant to the allegations. Parties who wish to call witnesses must submit the name of the witness at least five (5) days in advance of the hearing.

Only witnesses who participated in the investigation will be permitted to participate in the hearing, unless the witness was otherwise unknown or not known to possess relevant information during the course of the investigation. If the witness did not participate in the investigation, the party requesting the witness must also provide the reason the witness was not previously suggested to the investigator, what information the witness has that is relevant to the allegations, and, when possible, contact information for the proposed witness. The Hearing Panel will then determine whether the witness has relevant information and if there is sufficient justification for permitting the witness to participate. The Hearing Panel may, at its discretion, instead send the case back to the investigator to interview the newly proffered witness prior to the hearing.

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<sup>11</sup> Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

If a party has declined to be interviewed during the investigation, such party will be offered the opportunity to provide a statement at the hearing; however, depending on the length of the statement and the new information it may contain, the Hearing Panel has the discretion to pause the hearing and/or send the case back to the investigator to interview the party. The Hearing Panel may choose to place less weight on the statements of a witness or party who did not fully participate in the investigation.

A list of witnesses approved by the Hearing Panel will be provided to the parties at least three (3) days prior to the hearing.

Two (2) days prior to the hearing, each party shall submit to the Hearing Panel a preliminary list of questions they wish to pose to the other party or to a witness. If the Hearing Panel determines that any questions are not relevant or seek otherwise impermissible evidence, the Hearing Panel shall exclude the question and explain the reason for the exclusion of the question at the hearing. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The Hearing Panel must give a party an opportunity to clarify or revise any question that the Hearing Panel has determined is unclear or harassing and, if the party sufficiently clarifies or revises a question, and the question is relevant, the question will be asked.

Parties may also submit a written response to the final investigation report and/or any additional evidence that was gathered by the investigator after the initial evidence review. That response must be submitted no less than five (5) days prior to the date of the hearing and will be reviewed and considered by the Hearing Panel.

All witness requests and written submissions for the Hearing Panel should be sent via email to the Title IX Coordinator.

## H. Hearing Procedures

### *Hearing Participation Guidelines*

The Hearing Panel shall have the authority to maintain order and decorum at the hearing, including responding to disruptive or harassing conduct, and when necessary to exclude the disruptive person and/or adjourn the hearing. The Hearing Panel also has the authority to determine whether any questions are not relevant, abusive, intimidating, or disrespectful, or not relevant and will not permit such questions.

### *Rules of Decorum*

Rensselaer rules of decorum described in Section VI(C) of this policy, above, apply to hearings under this procedure. The Institute reserves the discretion to remove, with or without prior warning, from any meeting or proceeding an involved party, witness, or advisor who does not comply with these expectations and any other Institute rules.

### *Advisors*

Each party is entitled to be accompanied by one advisor at the hearing. The role of the advisor is to assist the party with understanding and navigating the proceedings. The advisor may not advocate for, respond for, make statements for, or otherwise speak on behalf of, a party during the hearing. In the event that a party does not appear for the Hearing, the advisor for that party may not participate in the hearing or submit questions to be asked on behalf of the party.

Each party may also be accompanied by one emotional support person.

### *Statements, Questioning, and Presentation of Evidence*

During the hearing, each party will be permitted to provide an introductory statement. Following introductory statements, the Hearing Panel will call parties and witnesses for questioning. The order of questioning shall be determined by the Hearing Panel. The Hearing Panel will pose questions to the parties and witnesses including the questions the Hearing Panel approved to be asked that were submitted by each party prior to the hearing. Each party will then be provided an opportunity to submit follow-up questions in writing to the Hearing Panel for the Hearing Panel to pose to the other party or witnesses. If the Hearing Panel determines that any questions are not relevant to the allegations, or seek otherwise impermissible evidence, the Hearing Panel shall exclude the question, and explain the reason for the exclusion of the question at the hearing. The Hearing Panel will offer an opportunity to the party to reframe or resubmit the question. Questions that are unclear or harassing of the party or witness being questioned will not be permitted.

**Only the Hearing Panel is permitted to ask questions of parties and witnesses. Neither party may directly question the other party or witness. Advisors are not permitted to directly or indirectly question the other party or witness.**

Following the questioning of parties and witnesses, each party will be permitted to provide a closing statement.

The parties may each submit a written impact statement to the Title IX Coordinator within three (3) days of completion of the hearing. The impact statement is not evidence and will be reviewed by the appropriate Sanctioning Officer only if and after a determination of responsibility is reached.

### *Hearing Panel Report*

Following the hearing, the Hearing Panel shall prepare a determination written report of its determination. All findings shall be made by a preponderance of the evidence, meaning more likely than not. To the extent credibility determinations need to be made, such determinations shall not be based on a person's status as complainant, respondent, or witness.

The Hearing Panel shall not draw an inference about whether prohibited conduct occurred based solely on a party's absence from the hearing or refusal to answer questions posed.

The Hearing Panel's report shall be provided to the Title IX Coordinator and will include, at a minimum:

- A description of the allegations;
- A reference to the policies and procedures used to evaluate the allegations;
- Description of all procedural steps taken to date;
- The Hearing Panel's evaluation of the relevant and not otherwise impermissible evidence along with the finding of facts;
- Determinations of whether this or other applicable policy was violated for each allegation, with the rationale; and
- Whether remedies will be provided.

If the Hearing Panel determines that there is *no finding of responsibility*, the Title IX Coordinator will provide the findings to each party, and their advisor should the party wish the advisor to receive it, in a written Notice of Determination along with the procedures and deadlines for requesting an appeal and access to the Hearing Panel's report.

If there is a *finding of responsibility*, the Title IX Coordinator shall contact the appropriate Sanctioning Officer who will be provided access to the Hearing Panel's report as well as any impact statements submitted by the parties. Past findings of responsibility relating to this policy, or any other Institute policy are admissible in the sanctioning stage only. The Sanctioning Officer will determine the appropriate disciplinary sanction and notify the Title IX Coordinator of the sanctioning determination.

The appropriate Sanctioning Officers are as follows:

- Students – Vice Provost of Student Experience; and
- Employees – Vice President, Vice Provost, or Dean of the school or division of Rensselaer in which they are appointed, or designee.

The Title IX Coordinator will then provide the findings to each party, and their advisor should the party wish the advisor to receive it, in a written Notice of Determination including any disciplinary sanctions imposed along with the procedures and deadlines for requesting an appeal. The Title IX Coordinator will also provide written communication to the complainant regarding any appropriate remedies.

Procedures for Appeals can be found in Section X of this policy.