

**RENSSELAER POLYTECHNIC INSTITUTE**

**STUDENT SEXUAL MISCONDUCT**

**POLICY**

**AND**

**PROCEDURES**

I.	INTRODUCTION .....	3
A.	Statement of Intent .....	3
B.	Jurisdiction .....	3
C.	Period of Limitations .....	4
D.	Student Bill of Rights .....	4
E.	Title IX .....	5
F.	General Policy Statements .....	6
G.	Responsible Employees .....	7
H.	Definitions .....	8
II.	REPORTING, CARE AND SUPPORT .....	11
A.	How and Where to File a Complaint of Sexual Misconduct .....	11
B.	Care and Support .....	14
C.	Confidential Care and Support Resources .....	14
D.	Medical Assistance and Evidence Collection .....	15
E.	Other Resources .....	16
III.	COMPLAINT PROCEDURES .....	16
A.	Introduction .....	16
B.	The Complaint Process .....	17
C.	Confidentiality and Privacy of the Complaint Process .....	18
D.	Complaint Request for Confidentiality or No Action .....	18
E.	Interim Measures .....	19
F.	Advisors and Support Persons .....	20
G.	Statement against Retaliation .....	20
H.	Fair and Equitable Process .....	20
I.	Intake and Preliminary Assessment .....	21

J.	Informal Process .....	22
K.	Investigation.....	23
L.	Administrative Resolution Where the Investigation Does Not Find a Policy Violation.....	23
M.	Administrative Resolution Where the Investigation Does Find a Policy Violation.....	24
N.	Hearing Board.....	26
O..	Sanctions.....	27
P.	Hearing Appeal Procedures .....	27
Q.	Notification .....	28
R.	Record Retention .....	29
S.	Special Provisions.....	29

Appendix A – Sexual Misconduct Policy Hearing Procedures

Appendix B – The Institute’s External Reporting Obligations for Sexual Misconduct

Appendix C – Sanctions Authorized Pursuant to the Student Sexual Misconduct Policy

**RENSSELAER POLYTECHNIC INSTITUTE  
STUDENT SEXUAL MISCONDUCT POLICY AND PROCEDURES**

**I. INTRODUCTION**

A. Statement of Intent

Rensselaer Polytechnic Institute is committed to maintaining a safe and healthy learning, living, and working environment in which no member of the Rensselaer community is, on the basis of sex, sexual orientation, gender identity or gender expression, excluded from participation in, denied the benefits of, or subjected to discrimination in any Institute program or activity. Gender-based and sexual-based harassment, including Sexual Misconduct and Sexual Violence, are forms of illegal discrimination in that they deny or limit an individual's ability to participate in or benefit from the Institute's programs or activities.

In support of the overall goals of Rensselaer Polytechnic Institute, the purpose of the Student Sexual Misconduct Policy is to maintain a campus living, learning and working environment that supports the Institute's educational mission, maintains respect and dignity for members of the Rensselaer community, and protects the rights of all members of the campus community. The Sexual Misconduct Policy is intended to foster personal responsibility, high ethical values, individual accountability and civility toward others.

The Policy embraces several core philosophies: respect for freedom of inquiry and constructive feedback; a conviction that honesty and integrity are key values to the campus community; and the belief that all members of the Rensselaer community should be part of a campus environment that is inclusive, respects differences and embraces diversity of culture, gender, religion, race, ethnicity, socio-economic background, nationality, age, lifestyle and ability.

Rensselaer is also committed to fostering a community that promotes prompt reporting of all types of Sexual Misconduct and timely and fair resolution of Complaints of Sexual Misconduct. In furtherance of this commitment, this Policy sets forth the available resources, describes prohibited conduct, and establishes procedures for responding to Complaints of Sexual Misconduct.

B. Jurisdiction

This Policy applies to any allegation of Sexual Misconduct made against a student of the Institute, regardless of where the alleged Sexual Misconduct occurred, as long as the conduct giving rise to the Complaint is related to an Institute sanctioned or sponsored event including but not limited to all Rensselaer academic, educational, athletic or extracurricular programs or activities.

If you are a **student** of the Institute and a Complaint has been filed against you, the investigation and adjudication process set forth in this Policy will apply.

If you are an **employee** of the Institute, or a third-party, and a Complaint has been filed against you, please refer to Human Resources Policy #600.3, Sexual Harassment.

The Complaint procedures set forth in this Policy, as well as in Human Resources Policy #600.3, Sexual Harassment, are administrative in nature and are separate and distinct from the criminal and civil legal systems. The Institute encourages Complainants to pursue all remedies available to them, including reporting incidents of potential criminal conduct to law enforcement. If the conduct in question is alleged to be a violation of both Institute policy and the law, the Institute will proceed with its normal process, regardless of action or inaction by outside authorities. Decisions made or sanctions imposed through these or other Institute procedures are not subject to change because criminal or civil charges arising from the same conduct are dismissed, reduced, or rejected in favor of or against the Respondent.

C. Period of Limitations

A Complaint of Sexual Misconduct may be filed at any time, regardless of the length of time between the alleged Sexual Misconduct and the filing of the Complaint. However, Rensselaer strongly encourages individuals to file Complaints promptly in order to preserve evidence for a potential legal or disciplinary proceeding. A delay in filing a Complaint may compromise the subsequent investigation.

D. Student Bill of Rights

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, 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.

Individuals may file a report, including an anonymous report, of Sexual Misconduct by visiting <https://sexualviolence.rpi.edu>.

E. Title IX

The Title IX Coordinators are responsible for the Institute’s compliance with Title IX including the review, investigation, and resolution of reports of discrimination, and sexual harassment, including Sexual Misconduct. The Title IX Coordinators are assisted and supported by several Title IX Liaisons who are accessible to members of the Institute community for consultation and guidance.

1. Title IX Coordinators

Larry Hardy, MBA, SPHR  
 Director of Employee Relations  
 and Professional Development  
 The Gurley Building  
 21 Union Street, 2<sup>nd</sup> Floor  
 Telephone: (518) 276-3065  
 Email: [HardyL2@rpi.edu](mailto:HardyL2@rpi.edu)

Jacqueline Turner  
 Deputy to the Vice President for  
 Human Resources  
 The Gurley Building  
 21 Union Street, 2<sup>nd</sup> Floor  
 Telephone: (518) 276-3980  
 Email: [creecj@rpi.edu](mailto:creecj@rpi.edu)

2. Title IX Liaisons

Rensselaer, in its commitment to support non-discrimination and equal opportunity, will appoint Title IX Liaisons for each academic and administrative Portfolio. The Title IX Liaison responsibilities include:

- a. Advising individuals, including a Complainant, a Respondent or a third party, about the courses of action available for responding to discrimination, harassment, and/or Sexual Misconduct at the Institute, both informally and formally, and in the community; and
- b. Providing information to Complainants, Respondents, third-party individuals, and the campus community about internal and external care and support services.

3. The Title IX Coordinators’ responsibilities include:

- a. Coordinating the Institute’s compliance with Title IX;

- b. Overseeing the Institute’s response to and resolution of reports of alleged violations of Rensselaer’s policies regarding civil rights and Sexual Misconduct by students, staff, faculty, and third parties;
- c. Coordinating training, prevention and education efforts with regard to sexual discrimination, harassment, and Sexual Misconduct;
- d. Coordinating periodic reviews of climate and culture with regard to sexual discrimination, harassment, and Sexual Misconduct;
- e. Identifying and addressing any patterns or systemic problems;
- f. Being knowledgeable of and trained in Institute policies and procedures and relevant state and federal laws regarding sexual discrimination, harassment, and Sexual Misconduct; and
- g. Advising individuals, including a Complainant, a Respondent or a third party, about the courses of action available for responding to discrimination, harassment, and/or Sexual Misconduct at the Institute, both informally and formally, and in the community.

4. Inquiries or Complaints concerning the application of Title IX may be referred to Rensselaer’s Title IX Coordinators, Title IX Liaisons, and/or to the U.S. Department of Education’s Office for Civil Rights:

**Office for Civil Rights  
New York Office  
U.S. Department of Education  
32 Old Slip, 26th Floor  
New York, NY 10005-2500  
Telephone: 646-428-3900  
FAX: 646-428-3843; TDD: 800-877-8339  
Email: [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)**

F. General Policy Statements

1. Non-Discrimination

Rensselaer Polytechnic Institute complies with all federal, state and local non-discrimination laws and is committed to providing a working, living and learning environment free from discrimination based on race, color, religion, sex, pregnancy, sexual orientation, gender identity, gender expression, age, marital status, national origin, citizenship status, disability, military status, veteran status, genetic information, genetic predisposition, domestic violence victim status, or any other basis prohibited by law.

## 2. Equal Opportunity

Rensselaer Polytechnic Institute is also committed to providing equal opportunities for all persons regardless of race, color, religion, sex, pregnancy, sexual orientation, gender identity, gender expression, age, marital status, national origin, citizenship status, disability, military status, veteran status, genetic information, genetic predisposition, domestic violence victim status, or any other basis prohibited by law. Equal opportunity extends to all aspects of the academic and student life relationship.

## 3. Sexual Harassment and Sexual Misconduct

Rensselaer Polytechnic Institute is committed to providing a working, living and learning environment free of sexual harassment, which includes Sexual Misconduct. Rensselaer prohibits sexual harassment and Sexual Misconduct in all of its working, living and learning environments. Sexual harassment and Sexual Misconduct violate an individual's fundamental rights and personal dignity. Rensselaer considers sexual harassment in all its forms to be a serious offense.

The expectations of the Rensselaer community regarding sexual conduct can be summarized as follows: In order for individuals to engage in sexual activity of any type with another person or persons, there must be clear, knowing and voluntary consent prior to and during sexual activity. Consent is sexual permission. Individuals who engage in Sexual Misconduct will be subject to disciplinary action, up to and including expulsion or termination.

Employees, including faculty, contingent faculty, research professionals, staff and members of the President's Cabinet, are prohibited from having sexual or romantic relationships with students.

## 4. Retaliation

Rensselaer Polytechnic Institute strictly prohibits retaliation against any person for reporting an allegation of sexual harassment or Sexual Misconduct, or for filing, testifying, assisting or participating in any manner in any investigation or proceeding involving allegations of discrimination, harassment, or an unethical action. Any person who violates this non-retaliation policy will be subject to disciplinary action.

## G. Responsible Employees

All members of the Rensselaer community are strongly encouraged to report information regarding any incident of discrimination, harassment, Sexual Misconduct, stalking, and hazing directly to a Title IX Coordinator or Title IX Liaison. The Institute cannot take appropriate action unless incidents are reported to a Responsible Employee of the Institute. In general, most Rensselaer employees do not have legally protected confidentiality. Under Title IX, an Institute is required to take immediate and corrective action if a Responsible Employee knew or, in the exercise of reasonable care, should have known about sexual or gender-based harassment that creates a hostile environment.

The U.S. Department of Education's Office of Civil Rights instructs that a Responsible Employee is any employee who has the authority to take action to redress sexual harassment/misconduct; who has been given the duty of reporting incidents of sexual harassment/misconduct or any other misconduct by students to the Title IX coordinator or other appropriate designee; or who a student reasonably believes has this authority or duty.

Rensselaer's Responsible Employees include all faculty members, advisors to student organizations, coaches, administrators, resident assistants, and other employees with a responsibility for student welfare. The Institute requires that all Responsible Employees share a report of alleged violations of this Policy and other Institute policies that are intended to protect the civil rights and dignity of the members of the Rensselaer community, including discrimination, harassment, Sexual Misconduct, with a Title IX Coordinator or a Title IX Liaison so that the Institute can respond appropriately to end the conduct, prevent its recurrence and remedy its effects.

#### H. Definitions

1. Accused. An accused is an individual accused of a violation of this Policy who has not yet entered into the complaint investigation and resolution process.
2. Complainant. A Complainant or Reporting Individual is an individual who reports or files a Complaint. A Complainant may be someone other than the person who may have been subjected to Sexual Misconduct, such as a witness.
3. Complaint. A Complaint is an allegation of Sexual Misconduct reported to or filed with the Institute.
4. 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.**

The following principles are reflected in the Policy definition of Affirmative Consent:

- 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 a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot

consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

- 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.

4. FERPA. The Family Education Rights and Privacy Act (“FERPA”) is a federal law that protects the privacy of student education records. FERPA grants to students or eligible parents the right to access, inspect, and review education records, the right to challenge the content of education records, and the right to consent to the disclosure of otherwise private education records.

5. Incapacitation. Incapacitation refers to the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, but are not limited to, sleep, blackouts, and flashbacks. Where alcohol (or another drug) is involved, incapacitation is determined by how the alcohol (or other drug) consumed impacts a person’s decision making capacity, awareness of consequences, and ability to make informed judgments.

6. Intimate Partner Violence. Intimate partner violence, which may also be referred to as dating, domestic, or relationship violence, is the use of physical, sexual or emotional abuse or threats to control another person who is, or has been involved in, a sexual, dating, domestic or other intimate relationship with the Respondent. Intimate partner violence may encompass a broad range of behaviors including, but not limited to, threats of and actual physical violence, Sexual Misconduct, emotional violence, and economic abuse. Such behavior can be directed to one’s self, one’s sexual or romantic partner, or to the family members or friends of the sexual or romantic partner.

7. Investigator. Investigator is a neutral fact-finder who is designated by the Case Management Team to investigate a Complaint.

8. Non-Consensual Sexual Contact. Non-consensual Sexual Contact is defined as any sexual touching, however slight, by a person(s) upon someone else (other person(s)), regardless of gender that is without their consent, and/or by force. Non-consensual sexual contact can include sexual intercourse.

9. Personally Identifiable Information. Personally Identifiable Information, as defined by FERPA, includes but is not limited to: (i) a Student’s name; (ii) the name of a Student’s parent/s or other family members; (iii) the address of a Student or a Student’s family; (iv) a personal identifier, such as a Student’s social security number, student number, or biometric record; (v) photograph; (vi) telephone number; (vii) other indirect identifiers, such as a Student’s date of birth, place of birth, or mother’s maiden name; (viii) other information that, alone or in combination, is linked or linkable to a specific Student and that would allow a reasonable person in the Rensselaer community, who

does not have personal knowledge of the relevant circumstances, to identify the Student with reasonable certainty; and (ix) information requested by a person whom the Institute reasonably believes knows the identity of the Student to whom the education record relates.

10. Preponderance of Evidence Standard. The Preponderance of Evidence Standard means “it is more likely than not” that sexual harassment, sexual misconduct or sexual violence has occurred.

11. Respondent. A Respondent is an individual who has been accused in a Complaint of committing Sexual Misconduct.

12. Retaliation. Retaliation means any adverse action threatened or taken against a person because he or she has filed, supported, or provided information in connection with a Complaint of Sexual Misconduct, including but not limited to direct and indirect intimidation, threats, and harassment.

13. Sexual Assault. Sexual Assault means any actual, attempted or threatened sexual contact with another person without that person’s Consent. Sexual Assault includes but is not limited to: (i) rape and attempted rape; (ii) intentional and unwelcome sexual touching, however slight, using any body part or any object, by a person(s) upon another person(s), of a person’s breasts, buttocks, groin, or genitals (with or without clothing), or coercing, forcing or attempting to coerce or force another to touch you, themselves, or a third party on any of these body parts or areas when such touching would be reasonably and objectively offensive; (iii) any sexual act in which there is force, violence, or use of duress or deception upon the victim; (iv) any sexual act perpetrated when the victim is unable to give Consent; (v) sexual intimidation which includes, but is not limited to, threatening (expressly or impliedly) to commit a sexual act upon another person without his or her consent, stalking or cyber-stalking, and engaging in indecent exposure.

14. Sexual Harassment. Sexual Harassment is defined as unwanted sexual advances, requests for sexual favors, or visual, verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made a term or condition of employment or participation in an academic, educational, extra-curricular, athletic or other program of the Institute;
- Submission to or rejection of such conduct is used as a basis for employment or academic decisions affecting the employee or student; or
- Such conduct has the purpose or effect of unreasonably interfering with work performance or participation in an academic program, or creating an intimidating, hostile, or offensive work, living or learning environment.

Sexual Harassment can occur in person, by phone, text message, e-mail or other electronic or written or social medium. Sexual Harassment can be physical, verbal and/or psychological in nature. An aggregation of a series of incidents can constitute Sexual Harassment even if one of the incidents considered on its own

would not be considered harassing conduct. Sexual Harassment includes conduct that may also be a criminal in nature such as rape, sexual assault, stalking, and other similar offenses.

15. Sexual Misconduct. Sexual Misconduct means any unwelcome conduct of a sexual nature, including any conduct or act of a sexual nature perpetrated against an individual without their Consent. Sexual Misconduct can occur between strangers or acquaintances, as well as people involved in an intimate or sexual relationship. Sexual Misconduct can be committed by any person (i.e., male, female, transgender), and it can occur between people of the same or different gender. Rensselaer encourages reporting of all Sexual Misconduct. Sexual Misconduct includes but is not limited to:

- Intimate Partner Violence,
- Sexual Assault,
- Sexual Harassment, and
- Stalking.

16. Stalking. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress. Stalking activity may be perpetrated through electronic or digital communications or conduct.

17. Student. A Student is any student who is registered at Rensselaer or enrolled at the Institute at the time of the alleged Sexual Misconduct *and* at the time a Complaint is filed.

18. Title IX Coordinator. Rensselaer's Title IX Coordinators are Larry Hardy, Director of Employee Relations and Professional Development, and Jacqueline Turner, Deputy to the Vice President for Human Resources. Their offices are located in the Gurley Building, 21 Union Street, 2<sup>nd</sup> Floor. They may be reached by telephone at (518) 276-3065 or (518) 276-3980, and they can be reached by email at [HardyL2@rpi.edu](mailto:HardyL2@rpi.edu) or [creecj@rpi.edu](mailto:creecj@rpi.edu). Rensselaer's Title IX Coordinators are responsible for how Rensselaer manages Title IX-related Complaints and for identifying and addressing any patterns or systemic problems involving Sexual Misconduct. Mr. Hardy and Ms. Turner are assisted by the Title IX Liaisons who are identified at Section I (D) (2) of this Policy, above. The Title IX Coordinators are available to meet with individuals who are involved with or concerned about issues or Institute processes, incidents, patterns or problems related to Sexual Misconduct on campus or in Institute programs. All allegations involving Sexual Misconduct should ultimately be directed to a Title IX Coordinator.

## **II. REPORTING, CARE AND SUPPORT**

This policy is intended to make students aware of the various reporting and confidential disclosure options available to them – so they can make informed choices about where to turn should they become a victim of, or witness to, Sexual Misconduct. Rensselaer encourages victims to talk to someone identified in one or more of these groups and to report their concerns so that the community has the opportunity to respond effectively to concerns of Sexual Misconduct.

A. How and Where to File a Complaint of Sexual Misconduct

Because Sexual Misconduct may in some instances constitute both a violation of Institute policy and a crime, and because Rensselaer's Complaint process is not a substitute for initiating legal action, Rensselaer encourages individuals to report alleged Sexual Misconduct promptly to campus officials as well as to law enforcement authorities, where appropriate.

Individuals may, however, choose not to report alleged Sexual Misconduct to such campus officials and/or law enforcement authorities. Rensselaer respects and supports the individual's decision with respect to reporting; nevertheless, the Institute may itself notify appropriate law enforcement authorities if required or warranted by the nature of the allegations at issue.

If Rensselaer determines that the alleged perpetrator(s) poses a serious and immediate threat to the campus community, The Rensselaer Department of Public Safety, under the auspices of the Clery Act may be called upon to issue a timely warning to the community. Any such warning should not include any Personally Identifiable Information about the victim.

1. Filing a Complaint with Local Law Enforcement.

Individuals may file a Complaint directly with local law enforcement agencies by dialing 911. Individuals may also contact any of the following for assistance in filing a complaint with local law enforcement:

- Rensselaer's Department of Public Safety may be contacted at (518) 276-6611. The Department of Public Safety is available 24 hours a day, 7 days a week.
- Rensselaer's Title IX Coordinators, Larry Hardy and Jacqueline Turner (518-276-3065 or 518-276-3980) or any of the Title IX Liaisons.

Individuals who want to report a Complaint of sexual assault on a New York college campus to the New York State Police, may call the dedicated 24-hour hotline at (844) 845-7269. In an emergency, call 911 and ask for the New York State Police. For confidential support resources, call the New York State Domestic and Sexual Violence Hotline at (800) 942-6906. In New York City, call (800) 621-HOPE (4673) or dial 311.

It is important to note that filing a report or otherwise contacting Rensselaer's Department of Public Safety does not require the filing of criminal charges nor does it constitute the filing of criminal charges.

Individuals may inform law enforcement authorities about Sexual Misconduct and discuss the matter with a law enforcement officer without making a formal complaint (or filing a Complaint with Rensselaer). Individuals who make a criminal complaint may also choose to pursue a Complaint with the Institute simultaneously.

A criminal investigation into the matter does not preclude the Institute from conducting its own investigation (nor is the fact or results of a criminal investigation determinative of whether the complained-of conduct violates this Policy or any other

Rensselaer policy). However, the Institute's investigation may be delayed temporarily while the criminal investigators are gathering evidence. In the event of such a delay, Rensselaer may take interim measures it deems necessary to protect the alleged victim and/or the Rensselaer community.

## 2. Filing a Complaint with Rensselaer's Administration

Individuals may choose not to report Sexual Misconduct to campus officials. Rensselaer respects and supports the individual's decision with regard to reporting; however, if information about Sexual Misconduct comes to the attention of the Institute, the Institute may (1) start an investigation even in the absence of a Complaint; and (2) notify appropriate law enforcement authorities if required or warranted by the nature of the information of which it becomes aware.

Anyone wishing to make a Complaint under this Policy should contact one of the following individuals or offices:

- Rensselaer's Department of Public Safety is located at the Public Safety Building, Visitor Information Center, 15th Street Footbridge and available by phone at (518) 276-6611 or you can contact Public Safety by using one of the Blue Emergency Phone Towers on campus. Public Safety officers are available seven days a week, 24 hours a day.
- Dean of Students Office, located at Academy Hall 4th Floor, Suite 4600. Hours of operation: Monday - Friday 8:30 a.m. - 5:00 p.m. (518) 276-6266.
- Title IX Coordinator or any one of the Title IX liaisons.
- Rensselaer's Vice Provost and Dean, Graduate Education, Stan Dunn can be contacted at (518) 276-8433.
- Rensselaer's Vice Provost and Dean, Undergraduate Education, Linda Schadler can be contacted at (518) 276-2244.

If an employee of the Department of Public Safety or any other Responsible Employee of the Institute receives a report of alleged Sexual Misconduct, that employee must and will notify Rensselaer's Title IX Coordinators.

Individuals may also file an anonymous report of Sexual Misconduct by visiting <https://sexualviolence.rpi.edu>. Individuals who choose to file anonymous reports are advised that it may be very difficult for the Institute to follow up or take action based on anonymous reports, especially where corroborating information is not available or is limited. Anonymous reports, however, may be used for purposes of compliance with Rensselaer's obligations under the Clery Act.

## B. Care and Support

Rensselaer is committed to treating all members of the community with dignity, care and respect. Any individual who experiences or is affected by Sexual Misconduct, whether as a Complainant, a Respondent, or a third party, will have equal access to care and support through the Institute. Interim remedies are also available to all parties (see Section III (D), below). Rensselaer recognizes that deciding how to respond to discrimination, harassment, and/or Sexual Misconduct can be difficult.

Rensselaer encourages all individuals to seek the support of and use all available resources on- and off-campus, regardless of when or where the incident occurred. There are both confidential and non-confidential care and support resources available. Confidential care and support resources are individuals, who by the nature of their work, are required by law to keep information shared with them confidential and who cannot share information revealed to them to another person without the express permission of the individual sharing the information. These campus and community professionals include medical providers, mental health providers, ordained clergy, rape crisis counselors, and attorneys. These individuals are prohibited by law from breaking confidentiality unless there is an imminent threat of harm to self or others. However, when a report involves suspected abuse of a minor under the age of 18, some of these confidential resources may be required by state law to notify child protective services and/or local law enforcement.

## C. Confidential Care and Support Resources

### 1. On-Campus Confidential Care and Support Resources:

The medical/counseling services listed below are available on campus and will provide total confidentiality if requested.

- The Student Health Center is located in Academy Hall.
  - Medical and Health Education, Suite 3200, (518) 276-6287
  - Mental Health Counseling Services, Suite 4100, (518) 276-6479
  - After normal business hours and weekends, contact Public Safety and request confidential services: (518) 276-6611.
- Religious Affairs, Chaplains Office, is located in the Rensselaer Union, 3<sup>rd</sup> Floor, Room #3514
  - For the Coordinator of Religious Affairs (ordained clergy), (518) 276-6518.

### 2. Off-Campus Confidential Care and Support Resources:

There are many confidential care and support resources available to individuals in the local community. These organizations can provide crisis intervention services,

counseling, medical attention, and assistance in dealing with the criminal justice system. All individuals are encouraged to use the resources that are best suited to their needs, whether on- or off- campus.

- St. Peter's Health Partners' Samaritan Hospital Emergency Department, located at 2215 Burdett Avenue, Troy, NY, 12180, (518) 271-3424 or go to the nearest hospital emergency department.
- The Sexual Assault and Crime Victims Assistance Program for Rensselaer County (SACVAP) is available 24 hours a day, 7 days a week for faculty, staff and students by contacting their 24-hour Sexual Assault Hotline at (518) 271-3257.
- Crime Victim and Sexual Violence Center, Albany County, is available 24 hours a day, 7 days a week for faculty, staff and students by contacting their 24-Hour Sexual Assault Hotline at (518) 447-7716
- Sexual Assault Crisis Center of Eastern Connecticut, Inc. (SACCEC), 78 Howard Street, Suite C1, New London, CT 06320, 24 Hour Hotline: (888) 999-5545 (for Rensselaer at Hartford, Groton Site)
- Connecticut Coalition against Domestic Violence (CCADV), 912 Silas Deane Highway, Lower Level, Wethersfield, CT 06109, 24 Hours Hotline: (888) 774-2900 (for Rensselaer at Hartford)
- Faculty, staff and their dependents can receive counseling and/or mental health services through Rensselaer's Employee Assistance Program (EAP) at (518) 465-3813 or (800) 777-6531.

#### D. Medical Assistance and Evidence Collection

An individual is encouraged to seek medical attention immediately following an incident of Sexual Misconduct, and particularly Sexual Assault, 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 a Sexual Assault must be collected from the victim'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 sexually assaulted should go to an emergency room, before washing their body or changing clothing. Hospitals have personnel who are specially trained to collect evidence in cases of alleged Sexual Assault; 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 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.

Student Health Service can provide after incident and follow-up medical care, however, it is not equipped to collect forensic evidence.

#### E. Other Resources

In addition to the confidential care and support resources listed above, individuals have access to a variety of other resources available through the Institute.

- Department of Public Safety is located at the Public Safety Building on 15th Street and available by phone at (518) 276-6611.
- Dean of Students Office is located at Academy Hall 4th Floor, Suite 4600. Hours of operation: Monday - Friday 8:30 a.m. - 5:00 p.m. (518) 276-6266.
- Vice Provost and Dean, Graduate Education, located at 1516 Peoples Avenue, Troy, NY 12180, can be contacted at (518) 276-8433.
- Vice Provost and Dean, Undergraduate Education, located at 4010 Walker Laboratory Building, can be contacted at (518) 276-2244.
- Title IX Liaisons, as identified in Section I (D) (2) of this Policy, Page 5.
- Responsible Employees, which includes all faculty members, advisors to student organizations, coaches, administrators, resident assistants, and other employees with a responsibility for student welfare.
- Division of Human Resources is located at the Gurley Building, 21 Union Street, 2<sup>nd</sup> Floor, Troy, NY, 12180, (518) 276-6302

### **III. COMPLAINT PROCEDURES**

#### A. Introduction

These Complaint and Investigation procedures have been adopted by Rensselaer to provide a prompt and equitable method for reporting, investigating, and resolving Complaints of alleged violations of the Institute's Sexual Misconduct Policy. If a Complaint involving an alleged Sexual Misconduct Policy violation includes alleged violations by faculty or staff of Rensselaer, the procedures set forth in Human Resources Policy #600.3, Sexual Harassment, will apply as to that (non-student) employee.

Regardless of the outcome of the informal and/or formal Complaint process, the Case Management Team (comprised of two Title IX Coordinators, Vice Provost and Dean of Undergraduate Education, Vice Provost and Dean of Graduate Education, and Dean of Students) will consider and implement any appropriate non-disciplinary, administrative measures

in response to the alleged conduct. Such measures may include a mutual no-contact letter or other forms of remedial, community-based responses, such as educational initiatives and/or trainings.

B. The Complaint Process

1. A Complaint of Sexual Misconduct can be filed with a Title IX Coordinator or any Title IX Liaison, the Dean of Students Office, RPI Public Safety, or any Responsible Employee as set forth above. All members of Student Life, Dean of Students Office and the Department of Public Safety are equipped to assist and connect the student (Complainant, Respondent or witnesses) with obtaining the emergency and support services that may be needed. An Incident Report of Sexual Misconduct will be filed with the Department of Public Safety, who is responsible for informing the Case Management Team and the Sexual Assault Response Team (SART).

2. All reports to Rensselaer will be investigated and, if appropriate, resolved in a fair and impartial manner. The Institute will review all reports and make an immediate assessment of any risk of harm to the Complainant or to the broader campus community and will take steps necessary to address those risks. These steps may include interim measures (as set forth in Section III.D, below) to provide for the safety of the Complainant and the campus community. As set forth above, Rensselaer's ability to investigate anonymous complaints may be limited.

3. Rensselaer seeks to resolve all Complaints within sixty (60) days of the initial Complaint. All time frames expressed in the Complaint procedures outlined in this Policy are meant as guidelines rather than rigid requirements. Circumstances may arise that require the extension of time frames, including extension beyond sixty (60) days. Such circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening Institute break or holiday, or other unforeseen circumstances. In the event that the process exceeds these time frames, Rensselaer will notify the Complainant and Respondent of the reason(s) for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

4. It is a violation of Rensselaer policy to file a knowingly false or malicious Complaint of an alleged Sexual Misconduct policy violation. Action against such conduct may be pursued using the procedure set forth in this Sexual Misconduct Policy. A Complaint filed in good faith under this provision shall not constitute retaliation.

C. Confidentiality and Privacy of the Complaint Process

1. Rensselaer will make every reasonable effort to ensure confidentiality of the complaint process, and to protect and maintain the privacy of those individuals involved in the complaint, investigation, and resolution process; and the disclosure of any sanctions imposed, except where such efforts are permitted by law. Even Rensselaer offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information provided to a non-confidential resource will be relayed only as necessary for the Title IX Coordinators to investigate and/or seek a resolution.

2. **Privacy:** Privacy is defined as precluding the sharing of information relative to a Sexual Misconduct complaint investigation with any persons who **do not** have a legitimate business interest in the investigation or resolution; and every effort will be made to ensure that the privacy rights of all those persons impacted by the process will be protected.

3. The complaint process demands the highest level of confidentiality. Therefore, the Institute will advise and assure all parties (Complainant, Respondent, any advisors, any support persons, and witnesses) involved in an investigation or subsequent proceedings of the need for confidentiality; the need to exercise integrity; and to ensure the privacy of those involved in the process.

4. The Institute recognizes that persons involved in the complaint process, including the Respondent and Complainant, may need support, advice and counsel. Therefore, the Respondent and Complainant involved in the complaint process are permitted to discuss and share information relative to the investigation with family, counselors, advisors or support persons throughout the process.

5. All information obtained during the course of the investigative, hearing and appeal processes will be protected from public release until the Vice President of Student Life makes a final determination unless otherwise required by law.

D. Complainant Request for Confidentiality or No Action.

If at any point the Complainant requests that their name or other Personally Identifiable Information be held confidential with respect to the Respondent or decides not to pursue action by Rensselaer, the Institute will make all reasonable attempts to respond to the Complaint in a manner consistent with the Complainant's request. However, Rensselaer's ability to investigate and respond to the conduct may be limited. Recognizing that Rensselaer has a legal obligation to review all reports, the Institute will weigh the Complainant's request against such factors as the seriousness of the alleged conduct, whether there have been other Complaints of a similar nature against the same Respondent, the Institute's commitment to provide a reasonably safe and non-discriminatory environment, and the rights of the Respondent to receive notice and relevant information before disciplinary action is taken. If Rensselaer determines that it is necessary to proceed with the Complaint process or implement other appropriate remedies, the Complainant

will be notified by the Dean of Students or a Title IX Coordinator of the Institute's chosen course of action.

E. Interim Measures

1. In response to a report of an alleged Sexual Misconduct policy violation, the Institute will impose reasonable and appropriate interim measures deemed necessary to protect the Complainant's personal safety and the safety of the Institute community. Interim measures may be imposed at the discretion of the Institute regardless of whether formal action is sought by the Complainant or the Institute. Potential measures, which may be applied to the Complainant and/or the Respondent include, but are not limited to:

- a. Assistance in accessing counseling services;
- b. Issuance of mutual no contact letters to ensure the safety of all parties and the integrity of the process;
- c. Rescheduling of exams and assignments (in conjunction with appropriate faculty); Academic assistance such as: providing alternative course completion options, dropping a course without penalty, or transferring to a different class Section (with the agreement of the appropriate faculty);
- d. Appropriate changes in work or class schedules;
- e. Housing assistance, such as: changes to on-campus housing, on-campus relocation, assistance with dissolving a housing contract in accordance with housing policies;
- f. Limiting an individual or organization's access to certain Institute facilities or activities pending resolution of the matter;
- g. Facilitating a voluntary leave of absence;
- h. Providing an escort to ensure safe movement on campus; and
- i. Implementing an interim suspension. (If a respondent is an employee, the process used will be that set forth in Human Resources Policy).

2. Interim Suspension: When deemed appropriate, Rensselaer may place a student or student organization on interim suspension. An interim suspension is the immediate but temporary, non-disciplinary separation of the student or student organization.

- a. A Respondent who has been put on an interim suspension has the right to a meeting with the Case Management Team to appeal only the interim suspension, not any other investigation or process that may be underway concerning the Complaint.

b. During an interim suspension, the Student or organization may be denied access to campus, campus facilities and/or all other Institute activities or privileges for which the Respondent might otherwise be eligible, as Rensselaer determines appropriate. When an interim suspension is imposed, the Institute will make reasonable efforts to complete the investigation and resolution within an expedited time frame.

F. Advisors and Support Persons

1. **Advisors:** The Complainant and Respondent may choose to be assisted by an advisor in any Sexual Misconduct investigation and/or Complaint proceeding. The advisor is present in an advisory capacity only to their respective party and may attend, but shall not participate or intervene in meetings, the investigation, or any proceeding related to the Complaint.

2. **Support Persons:** The Complainant and Respondent may each have an emotional support person of their choice present with them at all meetings and any Complaint proceeding associated with a Complaint and in which the respective individual is participating. The support person must be a member of the Rensselaer community and shall not have involvement in the underlying case. To serve as a support person, the individual will be required to meet with the Case Management Team prior to participating in any meetings associated with the Complaint. The support person is a silent and non-participating presence who is there solely to observe and provide emotional support. Because this is an administrative process, legal counsel will not be permitted to participate, if retained by a party. In any event, an attorney will only be permitted in a non-participatory advisory role at that individual's expense.

G. Statement Against Retaliation

Any attempt by any member of the Rensselaer community to penalize, intimidate, or retaliate in any way against a person who makes a Complaint of or who participates in an investigation or a hearing for alleged violations of the Sexual Misconduct policies is prohibited. Any person who believes that they have been retaliated against for making a Complaint or for cooperating in an investigation or hearing should immediately contact a Title IX Coordinator. Any person who retaliates against a person who has made a Complaint/report or who has cooperated in an investigation and/or hearing is in violation of Rensselaer policy and will be subject to disciplinary action.

H. Fair and Equitable Process

Rensselaer provides a fair and equitable process for responding to and resolving Complaints. The Institute will make reasonable efforts to ensure that both parties are treated with respect, dignity and sensitivity throughout the process, including as applicable:

1. Providing the Complainant and the Respondent access to care and support services from the Institute and from the community, as set forth in Sections II.B and II.C, above.

2. Facilitating privacy and protection under the Family Education Rights and

Privacy Act (FERPA).

3. Informing both parties of the Institute's policies and Complaint procedures.
4. Providing both parties the opportunity to challenge the appointment of the Investigator if a conflict of interest is demonstrated.
5. Allowing the Complainant and Respondent to choose to participate or decline to participate in the investigatory process related to a Complaint, with the understanding that the process will continue without their involvement and that the Investigator will determine an outcome with the information available to it.
6. Notifying both parties, in writing, of the Complaint resolution – including the outcome of any appeal.
7. Notifying both parties of the option to have an advisor and/or a support person.
8. Understanding that information collected through an investigation and/or Complaint proceeding may be subpoenaed in a criminal and/or civil proceeding.

I. Intake and Preliminary Assessment

Upon receipt of a report or Complaint, the Case Management Team (comprised of two Title IX Coordinators, Vice Provost and Dean of Undergraduate Education, Vice Provost and Graduate Education, and Dean of Students) will conduct an assessment of the Complaint, taking into consideration the nature of the conduct, the Complainant's expressed preferences, if any, as to course of action, and the necessity for any interim measures to protect the safety of the Complainant and/or the Institute community. The Institute expects that all reports received by a Responsible Employee are referred to a Title IX Coordinator for assessment to ensure prompt and equitable response to the conduct.

To begin the assessment, the Case Management Team will meet with the Complainant to review the Complaint, discuss the Complainant's on- and off-campus options for responding to the conduct, these Complaint procedures, identify care and support resources, and discuss possible interventions and interim measures.

The Case Management Team will determine next steps including whether the Complaint could be resolved through the informal process (Complaint Procedures, Section J) or should be moved forward to an investigation. If the informal or formal process moves forward, the Case Management Team will meet with the Respondent to review the Complaint, the related policies, and these Complaint procedures. They will also discuss Care and Support resources and any interim measures.

## J. Informal Process

1. If it is determined to be possible and safe, the Institute may choose to recommend resolving a Complaint through informal means. If informal resolution is appropriate, the Case Management Team will speak with the Complainant about this option. If the Complainant agrees, the Case Management Team will speak with the Respondent about the Complaint and the possibility of informal resolution. Informal resolution will be pursued only with the consent of both parties.

2. If informal resolution is determined to be appropriate, the Case Management Team will ask the Complainant to submit a written statement within five (5) days of the decision to engage in an informal resolution. The Case Management Team will share the Complainant's statement with the Respondent who will have five (5) days to submit a written response to the Case Management Team.

3. The Case Management Team will then meet separately with both parties to present and discuss an informal resolution based on the information available. In the informal resolution process the Case Management Team does not serve in the role of fact finder but rather identifies possible resolution(s) to the Complaint. If they are able to reach an agreed upon resolution by both parties, then the matter will be closed and no further action will be taken. If the parties are unable to reach an agreed upon informal resolution, the Case Management Team will begin the formal Complaint process by initiating an investigation (Complaint Procedures, Section K, below).

4. In addition to the informal resolution process discussed here, the Institute may choose to try an alternative form of resolution, such as mediation, for some types of Complaints, when appropriate and feasible. This alternative process will adhere to Title IX standards. **Mediation is not an option in cases involving allegations of Sexual Assault.** In cases where mediation is deemed to be an option, the Case Management Team will contact both parties to discuss the option. Mediation will be pursued only with the consent of both parties. The parties should not contact each other to discuss mediation. If the mediation results in a resolution, the matter will be closed and no further action will be taken. If the parties are unable to reach a resolution through mediation, the Case Management Team will begin the formal Complaint process by initiating an Investigation (Complaint Procedures, Section K, below).

5. The Case Management Team will maintain records of all reports and conduct referred for informal resolution. Informal resolution will typically be completed within thirty (30) days of the initial report as is reasonable and practicable. In circumstances when it is not reasonable and practicable to complete the informal process in this time frame, both parties will be notified in writing regarding the delay and anticipated completion.

## K. Investigation

1. If an informal resolution does not resolve, or is not appropriate for resolving the Complaint, the Case Management Team will appoint a trained internal or external investigator or investigative team (hereafter “Investigator”) to conduct a reasonable, impartial, and prompt investigation of the Complaint. The Case Management Team will appoint an Investigator based on several factors, including the parties involved and the need to avoid any potential conflict of interest. The Investigator, in consultation with the Case Management Team, will establish a timeline and process for conducting the investigation. In cases of Sexual Assault, the investigation will always be conducted by an investigative team. The Investigator(s), selected by the Case Management Team, will be trained faculty or staff, or an external investigator.

2. The Investigator will conduct the investigation based upon the facts and circumstances reported to the Institute and developed through the course of the investigation, including interviews as feasible and appropriate with the Complainant, the Respondent, and any witnesses, and gathering other pertinent evidentiary materials to the extent reasonable and appropriate. The Investigator will prepare a summary of each interview to review for accuracy with the interviewee.

3. Upon completion of the investigation, the Investigator will prepare a preliminary report outlining the investigation and the facts and circumstances that were found during the course of the investigation. The Investigator will review the preliminary report and factual findings with the Case Management Team. Based on this review, the Case Management Team will determine whether the preliminary report is reasonably complete or whether further review or investigation is appropriate.

4. Once the investigation process is complete, the Investigator will provide the Case Management Team with a fact-finding report with a recommendation of whether or not, based on a preponderance of evidence standard that it is more likely that not that a policy violation occurred. The Case Management Team will make the final determination of whether or not it is more likely that not that a policy violation occurred. If the Case Management Team determines that a policy violation does not exist, the process will follow the administrative resolution procedure set forth in Section III (L). If the Case Management Team determines that a policy violation does exist, the process will follow the administrative resolution procedure also set forth in Section III (M).

## L. Administrative Resolution Where Investigation Does Not Find A Policy Violation

1. If the Case Management Team determines that it is more likely that not that a policy violation does not exist, the Complainant and Respondent will be notified in writing of the investigation’s findings and will be provided an opportunity to review the Investigation Report and documentation from the investigation (hereafter “Investigation Record”) with the Case Management Team. Neither the Complainant nor the Respondent will be permitted to copy any of the documents or other evidence contained in the Investigation Record.

2. Complainant will then have five (5) business days to submit a Request for Hearing for review by the Case Management Team. The opportunity to submit a Request for Hearing is not provided to refute or express dissatisfaction with the outcome of the investigation. Instead, the Complainant's Request for Hearing should address the following specific potential areas for consideration:

a. **Clear Factual Error:** The Case Management Team made a clear factual error in concluding that it is more likely than not that a policy violation did not exist. A description of the factual error(s) and its impact on the investigation findings must be included in the Request for Hearing;

b. **Procedural Error:** A procedural error occurred that significantly impacted the outcome of the investigation as it applies to the Complainant (e.g. substantiated bias, material deviation from established procedures, etc.). A description of the error and its impact on the outcome of the case must be included in the Request for Hearing; or

c. **New Information:** New information has arisen which was not available or known to the Complainant during the investigation and that could substantially impact the findings. Information that was known to the Complainant during the investigation but which they chose not to present is not new information. A summary of this new evidence and its potential impact on the investigation findings must be included in the Request for Hearing.

3. If the Complainant submits a Request for Hearing, the Respondent shall have five (5) business days to submit a response statement. At the conclusion of these time periods, the Case Management Team will review the Investigation Record, the Request for Hearing, and any response statements and will make a determination as to whether reasonable cause exists to require a hearing. If reasonable cause for a hearing is found, the process will then follow the administrative resolution process set forth in Section N, below, and Appendix A. If reasonable cause for a hearing does not exist, the Complainant and Respondent will be notified in writing of this outcome. This decision is final and is not subject to appeal.

M. Administrative Resolution Where the Investigation Does Find A Policy Violation

1. If the Case Management Team determines that it is more likely than not that a policy violation does exist, the Complainant and Respondent will be notified in writing of the investigation's findings and will be provided an opportunity to review the Investigation Record with the Case Management Team. Neither the Complainant nor the Respondent will be permitted to copy any of the documents or other evidence contained in the Investigation Record.

2. The Respondent will be given five (5) business days to respond to the alleged violation(s) and Investigation's findings in the following ways: 1)

Agree; or 2) Disagree. If Respondent fails to respond, or voluntarily elects not to respond, such response will be considered as Disagree.

a. **If Respondent Agrees (i.e., Accepts Responsibility):**

Complainant and Respondent will each then have five (5) business days to submit a Consideration of Sanctions statement for review by the Vice President for Student Life. The Consideration of Sanctions statement should outline the sanctions that Complainant or Respondent believes should be considered by the Vice President for Student Life. An explanation of why the requested sanction(s) are reasonable and appropriate under the circumstances must be included in the Consideration of Sanctions statement. The Case Management Team will then forward the Investigation Record and any Consideration of Sanctions statements to the Vice President for Student Life, who, in consultation with them will determine sanctions as appropriate.

The following will be considered in determining sanction(s): the nature of and the circumstances surrounding the violation, the Respondent's prior disciplinary record, precedent cases, Institute safety concerns, and any other information deemed relevant. The sanction(s) will be structured to end the conduct, prevent its recurrence, and remedy its effects on the Complainant and the Institute community. Not all violations will be deemed equally serious offenses, and the Institute reserves the right to impose different sanctions, ranging from warning to expulsion, depending on the severity of the offense. Possible sanctions for students include up to and including suspension or expulsion. A more detailed list of possible sanctions is provided in Appendix C. The concerns and rights of both the Complainant and the Respondent will be considered in determining sanctions.

The Case Management Team will provide written notice of the outcome of the administrative resolution and any sanctions, if applicable, within five (5) business days whenever possible. This decision is not subject to appeal.

- b. **If Respondent Disagrees (i.e., Does Not Accept Responsibility):** If the student Respondent has no response or does not accept responsibility for the findings, both parties will be notified in writing by the Case Management Team that the matter has been referred to a hearing pursuant to Section III (N). The Case Management Team will schedule a meeting with each party to explain the hearing process and give the parties an opportunity to ask questions.

N. Hearing Board Procedure

1. The Hearing Board (hereafter “Board”) is charged with conducting a prompt, thorough, and unbiased hearing to determine, based on a **preponderance of the evidence**, whether or not the Respondent violated the Sexual Misconduct Policy specific to the alleged conduct. If a violation is found, the Board will recommend sanctions to the Vice President for Student Life, who will make a determination, and who shall have final responsibility for implementing appropriate sanction(s).

2. The Sexual Misconduct Hearing Board consists of three (3) members selected by the Case Management Team from among:

a. members of the Investigator pool who were not involved in the original investigation; and

b. faculty or staff who have been trained to review Sexual Misconduct Complaints.

3. The Case Management Team will designate one of these individuals to serve as the Chair. The Board is supported by the Case Management Team, who are present at the hearing and any meetings of the Board related to the hearing, but are not voting members of the Board. Their role is to serve as a resource for the Board regarding any procedural or other questions and to ensure the procedures are followed appropriately. They will also attend but not participate in the hearing and deliberations except as requested by the Chair.

4. In most circumstances, the Board will submit to the Case Management Team a written report of its findings within seven (7) business days after the conclusion of the hearing. If the Board finds the Respondent responsible for any policy violation(s), the Board will recommend sanctions to the Vice President for Student Life, who will make a determination, and who shall have final responsibility for implementing appropriate sanction(s).

5. The Case Management Team will report the hearing outcome including the Board findings and any sanctions, to the Complainant and the Respondent in writing. Both parties may appeal the outcome of the hearing as outlined in Section III (P).

6. Except in circumstances posing danger to either party, the sanction(s) imposed will be suspended pending the outcome of any appeal. Such determination will be made by the Case Management Team.

O. Sanctions

Any one or more sanctions may be imposed to a Respondent who is found responsible for any Sexual Misconduct policy violation(s). Sanctions not listed here may be imposed in consultation with and approval by the Case Management Team. Sanctions are assessed in response to the specific violation(s) and any prior discipline history of the Respondent. Some of the sanctions listed are applicable only to students, as indicated. Possible sanctions include, but are not limited to those shown on Appendix C. Sexual Misconduct.

P. Hearing Appeal Procedures

1. Both the Complainant and the Respondent may appeal in writing the outcome of a hearing. The written Request for Appeal should be submitted to the Case Management Team within two (2) business days following the date of the hearing outcome letter. The only grounds upon which an appeal may be based are:

a. **Procedural Error:** A procedural error occurred that significantly impacted the outcome of the hearing as it applies to the appealing party (e.g. substantiated bias, material deviation from established procedures, etc.). A description of the error and its impact on the outcome of the case as it applies to the appealing party must be included in the Request for Appeal; or

b. **New Information:** New information has arisen which was not available or known to the appealing party during the hearing and that could have substantially impacted the original finding or sanction(s) had it been available at that time. Information that was known to the appealing party at the time of the hearing but which they chose not to present is not new information. A summary of this new evidence and its potential impact on the findings and/or sanctions must be included in the Request for Appeal.

c. Dissatisfaction only with the outcome is not grounds for an appeal.

2. The Case Management Team will notify the non-appealing party that a Request for Appeal has been submitted.

3. The Case Management Team will consider if the Request for Appeal was submitted in a timely manner and if so, whether the Request for Appeal is properly framed based on one or more of the grounds for appeal. If the Case Management Team determines that the Request for Appeal was not submitted in a timely manner or is not properly framed, the Request for Appeal will be denied. If the Request for Appeal is submitted in a timely manner and is properly framed it will be referred to the Vice President for Student Life for review. The Vice President for Student Life will make a final determination for the Institute within seven (7) business days.

4. Appeals are not intended to be a full rehearing of the Complaint (de novo). In most cases, appeals are confined to a review of the written documentation supporting the Request for Appeal and the record of the original hearing. In any Request for Appeal the burden of proof lies with the party requesting the appeal, as the original determination and any sanctions are presumed to have been decided reasonably and appropriately.

a. **Procedural Error:** If it is determined that a procedural error occurred which was substantially prejudicial to the outcome of the hearing, the Complaint may be remanded to the original Board with instructions to reconvene to cure the error. In rare cases, where the procedural error cannot be cured by the original Board (as in cases of bias), a new hearing with a Board may be the appropriate remedy. The results of a reconvened hearing process cannot be appealed.

b. **New Information:** If it is determined that new information should be considered, the Complaint may be returned to the original Board to reconsider the Complaint in light of the new information only. In such a case, the findings of the Board based on consideration of the new information are not appealable.

Q. Notification

Reasonable efforts will be made to ensure that the Complainant and the Respondent are kept apprised of the status of the investigation and/or Complaint proceeding throughout the process. Both will be notified as follows:

1. Conclusion of the Investigation

a. Both parties will be allowed to review the Investigative Record.

b. Both parties will receive written notifications of whether the matter has concluded and there is no reasonable cause to believe a violation occurred or whether there is reasonable cause and next steps.

2. Administrative Resolution or Hearing

a. Both parties will be notified of the outcome of any administrative resolution in writing.

b. If the matter goes to a hearing, both parties will be notified in writing of the outcome of the hearing.

3. Appeal

a. If an Appeal has been filed, any response to such request shall be submitted to the Complainant and Respondent in writing.

b. Any decision regarding the appeal shall be submitted to the Complainant and Respondent in writing.

R. Record Retention

1. Records of investigations and hearings are maintained by the Institute for 7 years past the student's graduation or if the student leaves the Institute before graduation, for seven (7) years after leaving.
2. The hearing recording, if applicable, will be maintained as part of the case record as indicated above. The Complainant and the Respondent may listen to the recording during normal business hours by contacting the Case Management Team.

S. Special Provisions

1. The Institute reserves the right to modify or adapt these procedures as needed to allow for the fair and prompt resolution of a Complaint when it is received at the end of a term or during a break in the Institute's academic schedule.
2. Institute as Complainant:
  - a. As necessary, the Institute reserves the right to initiate a Complaint, to serve as Complainant, and to initiate Complaint proceedings without a formal Complaint initiated by the subject of the misconduct.
  - b. In such cases, the Institute reserves the right to terminate the Complaint process in circumstances in which it is able to reach a settlement with Respondent that satisfies the Institute's obligations under Title IX and other relevant discrimination laws to end the alleged conduct, prevent its recurrence, and remedy its effects on Complainant and the Institute Community.
3. Alcohol and Drug Use Amnesty: The health and safety of every student at Rensselaer is of utmost importance. Rensselaer recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the 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. Rensselaer strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Rensselaer officials or law enforcement will not be subject to the Rensselaer code of conduct action 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. However, the use of alcohol or other drugs will never function as a defense for any behavior that violates the Rensselaer Student Sexual Misconduct Policy.

4. **Past Sexual History:** The past sexual history of a party with persons other than the other party in an investigation or Complaint proceeding, or their own mental health diagnosis and/or treatment will be excluded. If the party believes the past sexual history of the other party is relevant to the investigation and/or Complaint proceeding they must submit a written request to the Case Management Team explaining the nature of the information and why the information is relevant to the investigation and/or Complaint proceeding. In most circumstances, the Case Management Team will review the request and render a decision within two (2) business days.

5. **Respondent's Prior Conduct History:** The Investigator and/or Board may consider past findings of domestic violence, dating violence, intimate partner violence, stalking or sexual assault information about previous behavior and/or Complaints regarding the Respondent if the Respondent was previously found to be responsible for a similar violation at the disciplinary/sanctions stage of the process by the Hearing Board (when applicable) or Vice President for Student Life when determining what sanction(s) to recommend or impose.

6. **Failure to Comply with Complaint Procedures:** If a party or other participant in the process (e.g., a support person) fails to comply with the procedures set forth herein, the Institute reserves the right to terminate the investigation or Complaint proceeding and/or to exclude a participant from further participation in the process. Examples include: material breaches of confidentiality and material breach of appropriate role as a support person. The Case Management Team shall be responsible for interpreting and applying this provision, and shall not terminate a process or exclude a participant from further participation without providing advance written notice and an opportunity for the affected party to respond in writing. In such circumstances, the Case Management Team shall implement alternative resolution options as may be appropriate under the circumstances to insure that, notwithstanding any misconduct during the Complaint proceeding, that the Institute has taken reasonable steps to determine whether a violation of the Institute's Sexual Misconduct policies occurred and, if so, to take prompt and appropriate remedial actions in response to such conduct.

## **Appendix A – Sexual Misconduct Policy Hearing Process**

1. Both parties have five (5) business days from notice that the matter is proceeding to a hearing, to submit a written statement and list of any witnesses they suggest be called by the Board to the Case Management Team. The witness list should include the following information regarding each witness:

- The names of any witnesses that either party intends to call;
- A written statement and/or description of what each witness observed, if not already provided during the investigation;
- A summary of why the witness’s presence is relevant to making a decision about responsibility at the hearing; and
- An explanation why the witness was not interviewed by the investigator, if applicable.

2. Any statements and witness lists submitted along with the Investigation Record (“Record for Hearing”) will be shared with the Board for review prior to the hearing.

3. The Board will thoroughly review the Record for Hearing and other information it determines necessary to assist it in reaching a determination prior to the hearing. From this review the Board will identify witnesses they would like to appear. Witnesses must have observed the conduct in question or have information relevant to the incident. The Board will not hear from individuals whose sole purpose is to provide character information. Both parties will be notified in advance of the hearing of any witnesses who will be appearing at the hearing.

4. Both parties have the right to not participate in the hearing if they so choose. In cases where the Respondent and/or Complainant have chosen not to participate in the hearing, the hearing will commence and the Board will hear from the party (if one exists) who has chosen to participate in the hearing.

5. The Board will, in its sole discretion, accommodate requests for alternative participation options (such as by Skype or other video conferencing formats) for the Complainant, the Respondent, and witnesses when necessary.

6. The hearing will be scheduled to allow reasonably sufficient time for the Complainant and the Respondent to prepare for the hearing and to allow for the participation of all material witnesses, provided, however, that the hearing will normally be scheduled to occur within fourteen (14) business days.

7. Board hearings are closed. The hearing itself will be recorded but not the deliberations.

8. The Complainant and Respondent may each be accompanied by an advisor and/or support person as outlined in Section III (F), above. The advisor is present in an advisory capacity only to their respective party and may attend, but shall not participate or intervene in hearing. The Complainant and Respondent may remain in the hearing until the Board begins to deliberate.

9. **Hearing Outline:** The general course of the hearing will be as follows, whenever possible:

- a. The Chair will convene the hearing.
- b. The Investigator will present the Investigation Record, highlighting consistencies and inconsistencies.
- c. The Complainant will be asked to make an opening statement if he/she chooses to do so.
- d. The Respondent will be asked to make an opening statement if he/she chooses to do so.
- e. The Complainant will respond to questions posed by members of the Board.
- f. The Respondent will respond to questions posed by members of the Board.
- g. The Chair will call any witnesses to provide information and respond to questions as the Board determines necessary.
- h. The Chair will ask the Investigator to provide clarification if the Board determines it is necessary.
- i. The Board will ask further questions of the parties as it deems necessary.
- j. The Complainant will make a closing statement if he/she chooses to do so.
- k. The Respondent will make a closing statement if he/she chooses to do so.
- l. The Board will conclude the hearing and meet in private to deliberate.

10. **Questioning.** Only the Board members may ask questions directly of the parties and any witnesses. Both parties have the opportunity to put forth questions of the other party and of witnesses by submitting questions to the Chair in written format. The Chair may determine which questions are relevant and which are duplicative in nature. The Chair reserves the right to revise or remove submitted questions.

11. **Board Findings:** Upon completion of the hearing, the Board will meet in private to deliberate and determine whether any policy violation(s) occurred. The Board will use the **preponderance of evidence standard of proof** to determine whether a policy violation occurred. **Preponderance of evidence means that the Board must be convinced based on the information provided that a policy violation was more likely to have occurred than to not have occurred in order to find the Respondent responsible for violating a policy.** Based on this standard, the Board may find a Respondent responsible for an alleged violation of policy based on a majority vote. The Board may also vote by majority to dismiss the Complaint based on the same evidentiary standard. Only the final finding will be shared with the parties.

## **Appendix B - 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")**

- A. 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 Law: members of the Department of Public Safety; local law enforcement, Dean of Students and Dean of Students Office professional staff; 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.

- B. 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.

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

The outcome of a campus hearing is part of the educational record of the Respondent. 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:

- The Complainant(s) in a non-consensual sexual contact/intercourse incident have 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 sexual exploitation, sexual harassment, stalking, relationship violence and any other gender-based offense have 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 a Institute policy that is 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 in any of these offenses regardless of the outcome.

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. Third parties that may request information from a student’s education record include graduate schools, potential employers, parents, etc. Generally, the student will have signed a release permitting the Institute to release information.

## **Appendix C – Sanctions Authorized Pursuant to the Student Sexual Misconduct Policy**

The list of sanctions provided are guidelines and may be implemented for violations of the Policy. Any one or more sanctions may be imposed to a Respondent who is found responsible for any Sexual Misconduct policy violation(s). Sanctions are assessed in response to specific violation(s) and any prior disciplinary history of the Respondent. The list of sanctions include but are not limited to incidents stated below.

### **Section 1**

Examples include but are not limited to: unwelcome religious, race, gender, ethnic, sexual orientation, gender identity and gender expression slurs; unwelcome jokes with sexual content; sexually-based gestures; unwelcome text messages with sexual content; “sexting;” sexual innuendo; suggestive comments; insults; humor and jokes about sex or gender specific traits; sexual propositions; suggestive or insulting sounds; leering/staring; whistling; and obscene gestures.

- a. **Service Hours:** A set number of work hours the Respondent must complete. The Case Management Team will determine the nature of the work to be performed. Generally, service hours are conducted on campus.
- b. **Educational Program/Project:** Programs and activities designed to help the Respondent become more aware of Institute policies and 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.
- c. **Referral for Counseling:** A referral for an assessment with an appropriately trained therapist and a mandate to follow any recommendations resulting from the counseling.
- d. **Loss of Privileges:** Denial of specific privilege(s) as defined by the Case Management Team for a defined period of time. Privileges include, but are not limited to, participation in extra-curricular activities and events such as social events, intercollegiate athletics, intramural programs, student organizations, and student government.
- e. **Restricted Access:** Conditions which specifically dictate and limit the Respondent’s presence on campus and/or participation in Institute-sponsored activities. The restrictions will be clearly defined and may include, but are not limited to, presence in certain buildings or locations on campus.
- f. **Removal of Offending Cause:** Requirement to remove the item which was the subject of the Complaint.

## Section 2

Examples include but are not limited to: Sexual Harassment; emotional abuse; threats; and retaliation.

- g. Relocation:** Requirement that the Respondent relocate to another residence hall, or off-campus, by a specified date.
- h. Warning:** Written notice that the Respondent's behavior was in violation of the Institute's Sexual Misconduct Policy and that future violations will result in more severe sanctions.
- i. Fine:** A monetary penalty assessed as appropriate to the violation.
- j. Conduct Probation:** Formal, written notice that the Respondent's behavior is in violation of the Institute's 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.
- k. 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.

## Section 3

Examples include but are not limited to: intentional grabbing and fondling; forcible touching; forcible kissing; unwelcome sexual touching; non-consensual video or audio taping of a sexual activity; and repeated violations of incidents in Sections 1 and/or 2.

- l. 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.

## Section 4

Examples include but are not limited to: sexual violence; sexual assault; rape; stalking, including cyber stalking; indecent exposure; intimate partner violence; domestic abuse, and repeated violations of incidents in Sections 1, 2 and/or 3.

- m. Expulsion:** Permanent separation from the Institute. 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.