



## RESOURCES

The following University of Rochester, community, and national resources are available for assistance.

### 1. University of Rochester Resources

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| A. <a href="#">Title IX Coordinator</a>                                | 585-275-1654   |
| B. <a href="#">University Department of Public Safety</a>              | 585-275-3333   |
| C. <a href="#">Center for Student Conflict Management</a>              | 585-275-4085   |
| D. <a href="#">University Health Service (confidential)</a>            |  |
| o River Campus   | 585-275-2662   |
| o Eastman School   | 585-274-1230   |
| o Medical Center   | 585-275-2662   |
| E. <a href="#">University Counseling Center (confidential)</a>         | 585-275-3113   |
| F. <a href="#">CARE Network</a>  | <a href="http://rochester.edu/care">rochester.edu/care</a> |
| G. <a href="#">University Chaplains, River Campus (confidential)</a>   | 585-275-4321   |
| H. <a href="#">University Chaplains, Medical Center (confidential)</a> | 585-275-2100   |

### 2. Rochester Area Resources (these agencies are not obligated to report to the University)

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|--|---------------------------------|
| A. <a href="#">RESTORE Sexual Assault Services 24-Hour Hotline</a>                 | 585-546-2777                    |
| B. <a href="#">Rochester Police Department Emergency</a>                           | 911                             |
| C. <a href="#">Rochester Police Department Victims Assistance</a>                  | 585-428-6630                    |
| D. <a href="#">Monroe County Sherriff, Victims Assistance</a>                      | 585-753-4389                    |
| E. <a href="#">Monroe County District Attorney's Office Victim Assistance</a>      | 585-753-4573                    |
| F. <a href="#">Monroe County Health Department</a>                                 | 585-733-5481                    |
| G. <a href="#">Trillium Health</a>   | 585-545-7200                    |
| H. <a href="#">Willow Domestic Violence Center 24-Hour Hotline</a>                 | 585-222-7233, Text 585-348-7233 |
| o TTY Phone  | 585-232-1741                    |
| I. <a href="#">Legal Assistance of Western NY</a>                                  | 866-341-7773                    |
| J. <a href="#">Legal Aid Society of Rochester</a>                                  | 585-232-4090                    |
| K. <a href="#">New York State Police Campus Sexual Assault Victims Unit</a>        | 844-845-7269                    |
| L. <a href="#">Healing through Education Advocacy and Law (HEAL) Collaborative</a> | 585-275-4325                    |

### 3. National Resources (confidential, 24 hour free hotlines)

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| A. <a href="#">National Sexual Assault Hotline (RAINN)</a>             | 1-800-656-4673   |
| B. <a href="#">National Suicide Prevention Lifeline</a>                | 1-800-273-8255   |
| C. <a href="#">The National Domestic Violence Hotline</a>              | 1-800-799-7233   |
| o TTY Phone  | 1-800-787-3224   |
| D. <a href="#">Crisis Text Line</a>                                    | Text HOME to 741741  |
| E. <a href="#">Love is Respect</a>                                     | 1-866-331-9474   |
| o TTY Phone  | 1-866-331-8453   |
| o Text Line  | Text LOVEIS to 22522   |
| F. <a href="#">The Trevor Project</a>                                  | 1-866-488-7386   |
| o Text Line  | Text START to 678678   |
| G. <a href="#">Trans Lifeline</a>                                      | 1-877-565-8860   |
| H. <a href="#">1 in 6 (24 Hour Online Helpline for Male Survivors)</a> | <a href="http://supportgroup.1in6.org/">supportgroup.1in6.org/</a> |

# I. INTRODUCTION

## A. Prohibition of Sexual Misconduct

Sexual Misconduct, including sexual assault and other forms of discrimination on the basis of sex and gender identity or expression, is unacceptable and prohibited by the University of Rochester [University]. The University takes all complaints of this nature seriously and has several policies pertaining to or created for the purpose of ensuring all complaints of sex-based harassment are responded to efficiently, thoroughly, and in accordance with relevant laws. The University has multiple policies pertaining to or created for the purpose of ensuring all complaints are responded to efficiently, thoroughly and in accordance with relevant laws. Together, these various policies reflect the University's strong commitment to preventing and appropriately responding to all complaints of sex-based harassment.

## B. Scope of this Policy

While this policy is focused on sexual misconduct committed by students, the University recognizes that all members of our community including faculty, staff and others may engage in sex or gender-based misconduct. The University is governed by multiple state and federal laws that prohibit discrimination based on sex. This Student Sexual Misconduct Policy describes behaviors students are prohibited from engaging in on the basis of sex that are not covered by the University [Title IX Policy](#) or [University Policy Against Discrimination and Harassment \(PADH\)](#). This document explains the procedures for addressing complaints, sets forth possible sanctions, and provides information about the rights of, and the resources available to support, individuals who believe that a University of Rochester student has engaged in Sexual Misconduct. Reports of students engaging in harassment and discrimination not related to sex will be addressed pursuant to the [Standards of Student Conduct](#) procedures.<sup>1</sup>

### 1. Application of this Policy to Off-campus Behavior

The University may investigate and respond (in accordance with this policy) to complaints of Sexual Misconduct by students that is reported to have occurred either on or off campus. Students may be subject to discipline for off campus conduct if it is associated with a University activity or raises considerable concerns that the individual or group poses a threat to the safety or welfare of the University community.

### 2. Distinction from Criminal Law

Some of the prohibited behaviors described in this policy are also violations of criminal law. When the University responds to a complaint under this policy it investigates and, if appropriate, issues sanctions using the standards described in this policy. There are significant differences between the standards for findings of a violation of this policy and the standards required for a determination of guilt under criminal law. Please see document on differences between criminal and institutional process [here](#).

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<sup>1</sup> If a complaint made under this policy also implicates the University Title IX Policy, the investigation and adjudication procedures of the Title IX Policy will be utilized to resolve the complaint.

Examples of Sexual Misconduct covered under this policy include sexual harassment, pregnancy discrimination, sexual assault, dating and domestic violence and stalking. ([Appendix B](#)).

The New York State Student Bill of Rights concerning Sexual Misconduct can be found in [Appendix E](#) to this policy.

### **C. Title IX Coordinator**

Julia Green serves as the University’s Title IX Coordinator and can be reached at:

Phone: 585.275.1654

Email: [julia.green@rochester.edu](mailto:julia.green@rochester.edu) or [titleix@rochester.edu](mailto:titleix@rochester.edu)

Location: Wallis Hall 147A, located within the Office of Equity and Inclusion Suite on the first floor (River Campus)

The Title IX Coordinator oversees and provides leadership for the staff members who carry out investigations, compliance-related responsibilities and reporting of Sexual Misconduct. Any student, applicant, faculty or staff member who has concerns about Sexual Misconduct is encouraged to seek the assistance of The Title IX Coordinator or a school’s Deputy Title IX Coordinator.

In addition to The Title IX Coordinator, Deputy Title IX Coordinators have been designated in each of the schools of the University. Deputy Title IX Coordinators are chosen to reflect the diversity of University of Rochester community, and help increase access to University Title IX programs and processes.

Please see [Appendix A](#) for contact information for each of the Deputy Title IX Coordinators. Information about the Deputy Title IX Coordinators can also be found online at: <https://www.rochester.edu/sexualmisconduct/>

The Title IX Coordinator works with other full-time professionals in the Office of Equity and Inclusion to ensure institutional compliance by ensuring effective and prompt response to reports as well as reviewing and implementing plans for education, prevention, and training. The term Title IX Coordinator in this document refers to Julia Green or her designee.

Questions regarding the application of Title IX can be made to the Title IX Coordinator or the U.S. Department of Education’s Office of Civil Rights (OCR).

The U.S. Department of Education’s Office of Civil Rights can be reached at:

Office for Civil Rights, New York Office  
U.S. Department of Education  
32 Old Slip, 26<sup>th</sup> Floor  
New York, NY 10005-2500  
(646) 428-3800  
[OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)

Office for Civil Rights, National Headquarters  
(800) 421-3481;  
TTY: 800-877-8339  
[www.ed.gov/ocr](http://www.ed.gov/ocr)  
[ocr@ed.gov](mailto:ocr@ed.gov)

## **D. Statement Against Retaliation**

Retaliation for complaining about Sexual Misconduct or participating in an investigation or a hearing involving a complaint of Sexual Misconduct is also prohibited and will be considered a violation of (and adjudicated pursuant to) this policy if perpetrated by a student. Clear definitions of behaviors prohibited by this policy are included in Section IV below.

## **II. REPORTING STATEMENT**

The University regularly engages in activities to prevent Sexual Misconduct in our educational programs and activities. If an incident of Sexual Misconduct occurs the University can only act to prevent it from reoccurring, and to remediate the impact of the conduct, if it is made aware of it. The University encourages individuals to report incidents of Sexual Harassment so steps can be taken to remediate and prevent such conduct from occurring again.

Students have the right to file a report of sexual harassment, sexual assault, domestic violence, dating violence, and/or stalking and to request that student sexual misconduct policy conduct charges be filed against another student in proceedings governed by New York State Education Law Article 129B and outlined in this document. Students also have the right to consult the Title IX Coordinator or any of the confidential or private resources below for information and assistance.

All members of the University community are encouraged to report any instances or claims of Sexual Misconduct, to the Title IX Coordinator. Responsible Employees who receive or learn of reports or concerns of Sexual Misconduct as defined within this policy must promptly (as soon as practical as and no later than forty-eight (48) hours) report to the University Title IX Coordinator (Appendix B).

**“Responsible Employees”** are student and non-student employees of the University who

- Supervise University employees, including student employees and faculty members,
- Have been designated as a Campus Safety Authorities pursuant to the Clery Act<sup>2</sup>,
- Serve as a Deputy Title IX Coordinators at one of the University’s schools and within the Department of Athletics,
- Have a job title with the word “dean” in it, or
- Work in any of the following departments/offices:
  - Department of Public Safety,
  - Office of Equity and Inclusion,
  - Student life offices in each of the University’s schools, or
  - Department of Residential Life.

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<sup>2</sup> If you are unsure if you are a Campus Safety Authority please contact the Title IX Office via email at [titleix@rochester.edu](mailto:titleix@rochester.edu) to inquire about your designation.

Only the employees listed above are required by this policy to report Sexual Misconduct, but other University policies may mandate reporting by certain people, and everyone is encouraged to report it.

### **III. IMPORTANT DEFINITION: CONSENT**

As used in this policy, consent refers to affirmative 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. Whenever the word "consent" is used in this policy, it should be understood to mean affirmative consent as defined here.

There are several important principles to keep in mind:

- Relying solely upon non-verbal communication can lead to miscommunication. It is important not to make assumptions and if confusion or ambiguity on the issue of consent arises anytime during the sexual interaction it is essential that each person stops and clarifies, verbally, willingness to continue.
- Consent to any sexual act or prior consensual 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 cannot otherwise consent. Depending upon the degree of intoxication, someone who is under the influence of alcohol, drugs or other intoxicants may be incapacitated and therefore unable to consent.
- Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, lack of awareness of circumstances or surrounds, or the inability to communicate for any reason. Among other circumstances, individuals may experience a blackout state in which they appear to be giving consent, but do not actually have conscious awareness or the ability to consent. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication.
- When a person's incapacitation is in question, the relevant standard that will be applied is whether the individual(s) knew, or a sober reasonable person ([Appendix B](#)) in the same position should have known, that the other party was incapacitated and therefore could not consent to the sexual activity.
- Consent cannot be given when it is the result of any coercion, intimidation, force or threat of harm. Coercion and intimidation include (1) using physically or emotionally manipulative conduct against the complainant or (2) expressly or implicitly threatening the complainant or a third party with negative actions that would compel or induce a reasonable person in the complainant's situation to engage in the sexual activity at issue.

- Examples of sexual coercive statements include those such as; “I will ruin your reputation”; “I will tell everyone”; “your education at UR will be over” or “I will post an image of you naked.”
- Examples of force or a threat of harm include (1) using physical force or (2) a threat, express or implied, that would place a reasonable person in the complainant’s situation in fear of physical harm to, or kidnapping of, themselves or another person. Coercion is evaluated based on the intensity, frequency and duration of the comments or actions. (Appendix B).
- When consent is withdrawn or can longer be given, sexual activity must stop.
- According to New York State law, an individual cannot give valid consent if the individual is under 17 years old.

## IV. PROHIBITED BEHAVIORS AND DEFINITIONS<sup>3, 4</sup>

The following behaviors are prohibited by this policy, and if engaged in by any student, may result in discipline (refer to Section XII, D below for possible sanctions). Throughout this policy, the term “Sexual Misconduct” shall be used to refer to any or all of the acts defined below (Appendix B).

In the conduct process, students who are alleged to have violated the Sexual Misconduct policy are referred to as “respondents” and individuals who have reported that they have been a victim of behavior that violates the Student Sexual Misconduct policy are referred to as “complainant” (Appendix B).

### A. Sexual or Gender-Based Harassment

“**Sexual Harassment**” is (1) any unwanted verbal, visual, written, electronic or physical conduct, of a sexual nature (2) that is intended to cause or could reasonably be expected to cause an individual or group to feel intimidated, demeaned, abused or fearful or have concern for their personal safety (3) because of their sex, sexual orientation, or gender identity or expression or because of their perceived or actual affiliation or association with individuals or groups identified by such characteristics.

Note that to qualify as Gender-Based Harassment, the conduct does not need to involve conduct of a sexual nature.

Sexual and Gender-Based Harassment prohibited under this policy can be classified as either hostile environment harassment or quid pro quo harassment.

1. *Hostile Environment Harassment*: A hostile environment based on sex, sexual orientation, or gender identity or expression exists when the conduct:

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<sup>3</sup> For information regarding New York state definitions of some of the terms used in this policy please see the “Think Safe” document produced by University DPS and located online at <https://www.rochester.edu/public-safety/crime-prevention/reports/>. The University’s definitions of sanctionable conduct may be different than state law.

<sup>4</sup> In order to ensure compliance with various federal and state laws, the University has several policies prohibiting sex based harassment and discrimination. Prohibited behaviors on the basis of sex may be defined slightly differently in each of those policies. The following definitions only apply in this, The Student Sexual Misconduct policy.

- is sufficiently severe or pervasive (meaning that the conduct is either of an extraordinarily severe or egregious nature or has been repeated with sufficient frequency or continually) (Appendix B); in other words, typically a single offense or occasional, episodic instances of offensive behavior will not qualify as sufficiently severe or pervasive, but a single egregious offense (e.g., sexual assault) would, and
- objectively and subjectively has the effect of
  - unreasonably interfering with an individual's work or equal access to education or
  - creating an intimidating, intolerable, or offensive work or academic environment.

Mere offensiveness is not enough to create a hostile environment.

In determining whether harassment has created a hostile environment, the University will consider not only whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as violating this policy (Appendix B). Also, the following factors will be considered:

- The degree to which the conduct affected one or more students' education or individual's employment;
- The nature, scope, frequency, duration, and location of incident or incidents;
- The identity, number, and relationships of persons involved;
- Whether the conduct unreasonably interfered with an individual's educational or work performance and/or University programs or activities;
- The nature of higher education.

2. *Quid Pro Quo Harassment*: Quid Pro Quo harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a University activity:

- are conditioned upon, either explicitly or implicitly, submission to unwelcome sexual advances or requests for sexual favors, or
- such submission is a factor in decisions affecting that individual's employment, education, living environment, or participation in a University program or activity.

Examples of quid pro quo harassment could include; a teaching assistant (TA) telling a student enrolled in their course that they will only grade the student's work fairly if the student agrees to have a sexual relationship with them, or a student organization leader requiring a student who seeks to join their organization to engage in sexual activity with the leader in order to obtain membership.

Sexual and Gender-Based Harassment can take many forms:

- May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- May be committed by anyone, regardless of gender, age, position or authority. While there is often a power differential between two people, perhaps due to differences in age, social, educational or employment relationships, harassment can occur in any context.

- It can occur between equals (e.g., student to student), between persons of unequal power status (e.g. student leader to first-year student) or between a person who appears to have less power in a relationship (e.g., student harassing faculty member) can also commit sexual harassment.
- May be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship.
- May be committed by or against an individual or may be a result of the collective actions of an organization or group.
- May be committed against an individual, an organization, or a group.
- May occur by or against an individual of any sex, sexual orientation, gender identity, or gender expression.
- May occur in the classroom, in the workplace, in residential settings, or in any other setting.
- May be a one-time event or can be part of a pattern of behavior.
- May be committed in the presence of others or when the parties are alone.
- May affect the person most directly targeted and/or third parties who witness or observe harassment and are affected by it.

It does NOT have to include intent to harm, be directed towards a specific individual, or involve repeated incidents.

The following types of behavior may constitute Sexual or Gender-Based Harassment:

- **Physical conduct:** including unwanted and intentional sexual touching (patting, pinching, or brushing another's body or clothing), sexual and/or physical assault including dating or domestic violence, impeding, restraining, or blocking movements, stalking in person or by electronic means; unwanted sexual flirtations, advances, and propositions; interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform their employment or academic duties; or sabotaging an individual's work;
- **Verbal conduct:** including making or using derogatory comments, or objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, anecdotes, epithets, slurs or humor; graphic verbal commentaries about an individual's body, clothing or lifestyle that have sexual implications or demean the individuals sexuality or gender, sexually degrading words used to describe an individual, suggestive invitations; or intentionally using incorrect pronouns or an incorrect name when a person has clearly stated their name and pronouns;
- **Visual conduct:** including leering or ogling, making sexual gestures, displaying of suggestive or sexually demeaning objects, pictures, cartoons, or posters in areas visible to other members of the University community; or severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate;
- **Written conduct:** including letters, notes, text messages, or other electronic communications containing comments, words, or images described above;
- **Quid Pro Quo conduct:** including direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists; offering educational or employment benefits in exchange for sexual favors; making submission to sexual advances an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle

pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose; or insinuating or threatening that an individual's refusal or willingness to submit to sexual advances will affect the individual's terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a University activity.

## **B. Sexual Assault**

**"Sexual Assault"** is a form of sexual harassment. Consistent with federal law, the University defines sexual assault any sexual act directed against another person, without the consent of that person, including instances where the person is incapable of giving consent.

Sexual assault includes, but is not limited to:

- 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 that person,
- b. Fondling – the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person,
  - Private body parts are defined as genital area, anus, groin, inner thigh, buttocks, breast, or mouth.
  - Touching can include either directly or through the clothing of another person.
- c. Incest – sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law,
- d. Statutory Rape – sexual intercourse with a person who is under the statutory age of consent. In New York, the statutory age of consent is 17 years old.

## **C. Dating Violence or Domestic Violence**

**"Dating Violence"** is violence committed by a person who is or has been in a social relationship of a romantic, sexual, or intimate nature with the person subjected to such violence that does not fall within the definition of "domestic violence". For the purposes of this definition:

- Whether the relationship is of a romantic, sexual, or intimate nature is determined by a variety of factors, including the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- A relationship of a romantic or intimate nature is characterized by ongoing or past physical and/or emotional intimacy between the parties.

### **"Domestic Violence"**

Domestic violence in New York State is a felony or misdemeanor crime and is defined as an act of violence between members of the same family or household which includes those who:

- are related by consanguinity or affinity;
- are legally married
- are formerly married
- have a child in common
- have been in an intimate relationship even if not living together

Dating Violence or Domestic Violence is behavior that seeks to establish power and control over the complainant, which includes, but is not limited to:

- a. Physical violence that causes bodily injury;
- b. Purposefully or knowingly causing reasonable fear of bodily injury to oneself or another person for the benefit of staying in the relationship or used as a tactic to keep a person in a relationship;
- c. Emotional abuse creating fear of bodily injury or property damage;
- d. Repeated communication through any means, anonymously or not, with intent to intimidate, terrify or threaten;
- e. Non-physical tactics, which would cause a person to suffer psychological or emotional abuse that causes substantial emotional distress ([Appendix B](#)).

Dating Violence or Domestic Violence may also be referred to as Intimate Partner Violence (IPV). Intimate Partner Violence affects individuals of all sexes, sexual orientations, gender identities, gender expressions, races and social and economic backgrounds ([Appendix B](#)).

When analyzing reports of Dating Violence or Domestic Violence, the following factors are considered:

- The existence of any power differential between the individuals, such as a position of authority or influence;
- Whether or not the person subjected to the behavior became fearful due to the actions of the other individual due to “real or implied consequences”; and
- The context of the behavior (e.g., a history of coercive controlling tactics by one individual over the other; intended and actual outcome of their behavior on the other; one individual acting in self-defense or in response to recent violations, abuse, threats or coercive tactics; and/or out of fear of imminent harm or danger).

The predominant aggressor is the individual, in a dating or domestic violence incident, who uses violence, or threats of violence, to exert power and/or control over the other individual.

The following factors may be considered in determining the predominant aggressor:

- Offensive and defensive injuries, if any, and any other physical evidence;
- Use of threats of harm against the other party, another family member, household member, and/or their property;
- Possession or use of a weapon or another means of injuring the other party;
- A prior history of violence in the relationship;
- The reasonableness of the defensive behavior;
- Witness statements; and/or
- Any other factor determined to be relevant given the specific reported circumstances.

## D. Sexual Exploitation

“**Sexual Exploitation**” occurs when a person takes non-consensual, sexual advantage of another for one’s benefit or the benefit of another party.

Examples of Sexual Exploitation include but are not limited to:

- Observing or recording others engaged in sexual or private activity (such as undressing or showering) without the consent of all involved;
- Non-consensual sharing, streaming or otherwise distributing intimate images, photography, video, or audio recording of sexual activity or nudity of the person being exploited, or distribution of such without the knowledge and consent of all parties involved;
- Exposing one’s genitals in non-consensual circumstances;
- Engaging in sexual activity with another individual while knowingly infected with a sexually transmitted disease (STD) or sexually transmitted infection (STI) without informing the other person of such infection;
- Demanding financial compensation, sexual contact, or some other benefit under threat of disseminating or posting images, video or other recording, of private sexual or intimate activity and/or a person’s genitalia, groin, breasts and/or buttocks;
- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity;
- The recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a sexual act where such an act is induced by force, fraud, or coercion.

## E. Stalking

“**Stalking**” is conduct of a sexual or romantic nature or motivation directed at a specific person that would cause a reasonable person to fear harm to their health or safety, or that of a person they are close to, such as a friend or family member, or suffer substantial emotional distress ([Appendix B](#)).

Stalking behavior addressed under this policy typically includes one or more of the following elements:

- Is sexual or romantic in nature; and/or
- Is committed by an individual’s current or former partner of an intimate, romantic, or sexual relationship; and/or
- Is related to the individual exhibiting what is perceived as a stereotypical characteristic for one’s sex, or for failing to conform to stereotypical notions of masculinity and femininity, regardless of the actual or perceived sex, gender, sexual orientation, gender identity, or gender expression of the complainant.

Stalking behaviors can include but are not limited to the following:

- Non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, text messages, written letters, gifts, or other communications that are undesired by the recipient;
- Pursuing, following, waiting or showing up uninvited at or near a residence, workplace, classroom, or other place frequented by the complainant;

- Surveillance, including by the use of technology, or other type of observation, including staring or “peeping”, interfering with the person’s property by installing spyware on another person’s personal devices, such as phones, vehicles, or computers;
- Posting picture(s) or information of a sexual nature on social networking sites or other websites;
- Gathering information about the complainant through the use of public records, private or identifying information, online searches, going through the garbage, devices, or contacting the complainant’s friends, family, or co-workers;
- Stalking includes cyber-stalking, a particular form of stalking in which electronic media such as the Internet, social networks, blogs, cell phones, texts, e-mails, or other similar devices or forms of contact are used to pursue, harass, threaten, or to make unwelcome contact with another person in an unsolicited fashion.

Stalking that is not sex or gender-based is covered by the [Standards of Student Conduct](#) and should be reported to the Department of Public Safety (585-275-3333) on campus and will be handled pursuant to that policy and/or New York State criminal laws.

## **F. Retaliation**

“**Retaliation**” is any adverse action taken against an individual by a member of the University community because the individual has engaged in protected activity. Protected activities are defined as the following:

(1) personally complaining of or opposing perceived discrimination or harassment; (2) testifying, assisting, or participating in an investigation, proceeding, hearing, or legal action involving a claim of discrimination or harassment, or (3) exercising rights afforded to them pursuant to this policy or a law related to sex based harassment.

Retaliation includes actions that would dissuade a reasonable person from engaging in these types of protected activities. Retaliation can be committed by an individual or a group of individuals.

Retaliation can take many forms, including threats, intimidation, interference, continued abuse, violence, or other forms of harm to others, and in varying modes, including in person and in electronic and online communication.

Retaliation can also include adverse employment or educational actions made or taken against an individual because of their good faith participation in the reporting, investigation, and/or resolution of an alleged violation of this policy and/or any conduct that would discourage a reasonable person from engaging in further protected activity.

Depending on the circumstances, examples of retaliation could include, but are not limited to the following if taken because the individual engaged in protected activity:

- An escalation of harassing behavior in response to a complaint,
- Making false reports to governmental authorities (e.g., law enforcement, licensing agencies),
- Threats of deportation, initiating action with immigration authorities,
- Adverse actions within co-curricular student life could include a student organization denying membership to an interested student due to their participation as a witness in a sexual harassment investigation process or, a student starting an online petition encouraging other students to avoid another student because they made a sexual harassment complaint.

## **G. Aiding or Facilitating**

“**Aiding or Facilitating**” is any action or course of action that assists, promotes or encourages the commission of a violation under this policy. Aiding or facilitating may also include failing to take action to prevent an imminent act when it is reasonably prudent and safe to do so. Taking action may include direct intervention, calling Public Safety, or local law enforcement or seeking assistance from a person in authority.

## **H. Failing to Control Guests**

“**Failing to Control Guests**” students’ failure to take reasonable steps to prevent their guests from violating the code of conduct may result in those students being charged for a violation of this policy.

# **V. REPORTING OPTIONS AND CONFIDENTIALITY**

As a community, the University believes it is imperative that students are able to access support services offered by the University even if they do not wish to formally report the incident to the University. Individuals have the opportunity to speak with someone who can answer questions about something they experienced or observed and discuss options for moving forward without fear that doing so will automatically set into motion a formal investigation. In order to make the best decision about where to go for this conversation, it is important that individuals understand the places on campus where they can speak with full confidentiality and the places that can offer privacy; as well as the difference between the two.

## **A. Confidential Resources**

Individuals who are confidential resources can assist in obtaining resources and will not report information shared with them to law enforcement or University officials without your permission, except in extreme circumstances, such as a health and/or safety emergency, imminent threat to self or others, or where there is mandatory reporting of suspected child abuse. Accordingly, sharing information with a confidential resource will not result in a report to the University, an investigation, or disciplinary action, except in such extreme circumstances. In order to initiate an investigation or disciplinary action, a report must be made through one of the non-confidential options described in this policy.

Confidential Resources are not required to report the details of an incident to the Title IX Coordinator; however, they are asked to submit a report with information regarding the date, time and location of the incident as well as the type of conduct that occurred. The report does not need to include any personally identifiable information regarding the individuals involved in the incident.

Honoring the request for confidentiality may limit the University’s ability to meaningfully investigate and pursue disciplinary action against a respondent.

University and off-campus Confidential Resources are available (National Resources can be found on [page 2](#)).

## 1. University Confidential Resources include:

### University Counseling Center

River Campus Office (585) 275-3113  
Third Floor, UHS building 738 Library Road  
Susan B. Anthony Circle

Eastman School Office (585) 275-3113  
ESM Living Center, Room 107  
*A limited number of appointments available.  
Call (585) 275-3113 to schedule an appointment.*

### University Health Service

UHS River Campus (585) 275-2662  
1<sup>st</sup> Floor, UHS building  
738 Library Road, Susan B. Anthony Circle

UHS Medical Center Office (585-275-2662)  
Room 1-5077, UR Medical Center  
(The entrance is at 250 Crittenden Blvd.)

UHS Eastman School Office (585) 274-1230  
Room 106, ESM Student Living Center

Non-professional counselors and advocates: These individuals can assist without sharing identifying information. At the University of Rochester, this includes:

### University Chaplains

Interfaith Chapel, River Campus  
(585) 275-4321  
500 Wilson Blvd.

University Chaplains Office  
URMC (585) 275-2187  
1-3302, UR Medical Center

## 2. Off-campus Confidential Resources include:

### RESTORE Sexual Assault Services

24 Hour Hotline: (800) 527-1757

*Crisis services offices will generally maintain confidentiality unless you request disclosure and sign a consent or waiver form. More information on an agency's policies on confidentiality may be obtained directly from the agency.*

### **Willow Domestic Violence Center**

24 Hour Hotline: 585-222-7233

TTY: 585-232-1741 or TEXT to 585-348-7233

*24 hour crisis hotline, emergency shelter, programs and treatments.*

### **3. Additional Resources:**

A full list of resources including confidential, and private resources, local, state wide, and national resources can be found at the [University of Rochester Resources](#), or by clicking [here](#).

### **B. Seeking Confidential Medical Care**

In Monroe County, New York, designated [Sexual Assault Forensic Examination Centers \(SAFE\)](#) provide medical treatment and forensic exams at:

- Emergency Department at Strong Memorial Hospital, 601 Elmwood Ave., Rochester, NY 14642
- Emergency Department at Rochester General Hospital, 1425 Portland Ave., Rochester, NY 14621
- Emergency Department at Unity Hospital, 1555 Long Pond Road, Rochester, NY 14626

In New York, it is the consenting patient's choice whether to involve law enforcement personnel or not. However, medical providers who treat a physical injury sustained from an assault, physical or sexual, are required by state law to report the assault to law enforcement. A SANE is a registered nurse specially trained to provide care to patients who have experienced sexual assault ([Appendix B](#)).

Note that medical office and insurance billing practices may reveal information to the insurance policy holder, including medication and/or examinations paid for or administered. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. Options can be explored at this website: <https://ovs.ny.gov/help-crime-victims>, or by calling 1-800-247-8035.

### **4. Privacy versus Confidentiality**

University offices and employees who are not Confidential Resources can assist in helping students obtain resources and will maintain privacy at all times, meaning that the information provided to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution. A list of offices that can provide private guidance related to sexual misconduct can be found online at <https://www.rochester.edu/sexualmisconduct/resources.html>.

The University will seek consent from a complainant prior to conducting an investigation. A complainant may decline to consent to an investigation, and that determination will be honored unless the University determines failure to investigate may result in harm to the complainant or to other members of the University community. **Please note that the University must respond to reports of sexual harassment**

**involving employee Respondents.** If determined an investigation is required, the University will notify the complainant and take immediate action as necessary to protect and assist them.

If a complainant discloses an incident to a non-confidential resource, but wishes to maintain confidentiality or does not consent to the institution's request to initiate an investigation, the Title IX Coordinator will weigh the request against the University's obligation to provide a safe, non-discriminatory environment for all members of our community, including the complainant. The factors to be considered include, but are not limited to:

- whether the respondent has a history of violent behavior or is a repeat offender;
- whether the incident represents escalation from previously noted behavior,
- the increased risk that the respondent will commit additional acts of violence;
- whether the respondent used a weapon or force;
- whether the complainant is a minor;
- whether the University possesses other means to obtain evidence such as security footage, and whether the report reveals a pattern of perpetration at a given location or by a particular group; and
- whether the respondent is an employee of the University.

## **5. Public Awareness/Advocacy Events**

If a complainant discloses a situation through a public awareness event such as "Take Back the Night," candlelight vigils, protests, student organization or other event or forum, or other public event, the University is not obligated to begin an investigation. The University may use the information provided to inform the need for additional education and prevention efforts.

## **6. Institutional Crime Reporting**

Reports of certain crimes occurring in certain geographic locations will be included in the University's Clery Act Annual Security Think Safe Report in an anonymized manner that neither identifies the specifics of the crime or the identity of the complainant.

## **7. Disclosures to Parents Pursuant to FERPA**

FERPA defines an eligible student as a student who has reached 18 years of age or is attending a postsecondary institution at any age. This means that, at the secondary level, once a student turns 18, all the rights that once belonged to their parents transfer to the student. However, a secondary school or postsecondary institution may still provide an eligible student's parents with access to education records, without the student's consent, if the student is claimed as a dependent for IRS tax purposes. In addition,

the University may disclose to a parent personally identifiable information from an education record to appropriate parties, including parents of an eligible student, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. For more information, see the [Family Educational Rights and Privacy Act Regulations, 34 CFR §99.31\(a\)\(8\) & \(a\)\(10\)](#).

## **VI. INVESTIGATIONS**

All students have the right to a prompt response to their complaint and to have the complaint investigated and adjudicated in a fair, impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made pursuant to the provisions of NYS Education Law Article 129B and this policy. Investigations must also be conducted in a manner that provides a meaningful opportunity to be heard and is conducted by individuals without a conflict of interest.

During this investigation, both the complainant and the respondent can offer evidence.

If a party to a sexual misconduct complaint is concerned that an individual involved in the investigation or adjudication of their complaint has a conflict of interest, they can request that individual be removed from the process. Requests for removal based on a conflict of interest should be submitted via e-mail to the Title IX Coordinator or to the judicial officer.

All students have the right to have written or electronic notice, provided in advance pursuant to the college or university policy and reasonable under the circumstances, of any meeting they are required to or are eligible to attend, of the specific rule, rules or laws alleged to have been violated and in what manner, and the sanction or sanctions that may be imposed on the respondent based upon the outcome of the judicial or conduct process.

## **VIII. INITIAL ASSESSMENT AND SUPPORTIVE MEASURES**

1. Initial Assessment: Upon learning of a potential incident of Sexual Misconduct the Title IX Coordinator will promptly reach out to the Complainant, if their identity is known, inform them of their rights and options, and request a meeting with the Complainant. During this meeting an initial assessment of the report will be made to determine whether the alleged behavior may be addressed utilizing the procedures in this policy or if another policy is more appropriate. For example if a report alleges behaviors that are prohibited by the University Title IX Policy or the Policy against Discrimination, Harassment, and Discriminatory Employment/Service Practices (“Policy Against Discrimination/106”), the University will refer the report to the administrator/office responsible for implementing the policy that governs that behavior. If a request for a meeting is declined, the Title IX Coordinator will conduct an initial assessment utilizing the information available.
2. Supportive Measures: During the initial assessment conversation the Title IX Coordinator will share with the Complainant information regarding supportive measures that may be implemented.

Supportive measures include those designed to protect the safety of all Parties or the University's educational or work environment or deter sexual harassment. Supportive measures may include access to counseling, extensions of deadlines, or other course-related adjustments, modifications of work or class schedules, campus escort services, issuance of Active Avoidance Orders requiring restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, temporary reassignment of work, increased security and monitoring of certain areas of the campus, and other similar measures.

Any individuals who would like to request a supportive measure can contact the University Title IX Coordinator by e-mail at [titleix@rochester.edu](mailto:titleix@rochester.edu) or the Deputy Title IX Coordinator for their school ([Appendix B](#)). The Coordinator assesses the request for a supportive measure and informs the individual whether it has been granted. If a request is denied, the requesting individual is afforded a prompt review, reasonable under the circumstances, of the need for, and terms of, the supportive measure and is able to submit evidence in support of their request. Information about how to make a request for a review of the decision is provided in the letter discussing the resolution of the request.

Supportive measures may be requested by the impacted students or imposed by the University on its own initiative. For example, a Complainant or a Respondent may request an Active Avoidance Order or other protection, or the University may choose to impose Active Avoidance Orders or other measures at its discretion to ensure the safety of all parties, the broader University community and/or the integrity of the process.

When determining the appropriateness of a supportive measure request the Title IX Coordinator will evaluate whether the implementation of the measure would be likely to:

- a. Improve safety;
- b. Prevent retaliation; and/or
- c. Avoid an ongoing hostile environment.

**Emergency Removal:** When a Respondent is determined to be an immediate threat to the physical health or safety of any individual the University may, in its discretion, initiate emergency removal/temporary suspension of the Respondent from campus and/or from other settings in which the Respondent poses such a threat. Prior to making any decisions about removal, the University conducts an individualized safety and risk analysis to aid in determining whether removal is an appropriate step. If the University decides to remove the Respondent, the University provides the Respondent and the Complainant with written notice of the removal decision and information regarding their opportunity to appeal the decision. Specific information about the appeal process is included in the written notice. If the emergency removal decision is altered both Parties will be notified in writing.

## **A. Protective Measures**

### ***Active Avoidance Orders (AAO)***

Active Avoidance Orders are issued by the judicial officer, Department of Public Safety, or the University Title IX Coordinator in order to limit the contact between two or more individuals that are engaged in an interpersonal conflict. An Active Avoidance Order is not considered disciplinary action in cases of alleged misconduct but may be imposed as a sanction as a result of a conduct hearing. Failure to abide by an Active Avoidance Order may result in arrest, additional conduct charges, interim suspension or other sanctions as

deemed appropriate by the judicial officer. If either party violates the Active Avoidance Order, the other party should contact the judicial officer or the Department of Public Safety.

In situations in which an Active Avoidance Order has been issued, one or both parties are instructed to make no contact with the other party(s) by any means whatsoever. Each party is instructed to respect the need for each individual to be able to manage their University duties with a minimum of contact with the other(s). All individuals are also instructed to act reasonably and responsibly should incidental contact occur. If the respondent and the reporting individual observe each other in a public place, it is the responsibility of the respondent to leave the area immediately and without directly contacting the complainant.

When an Active Avoidance Order is issued or subsequently modified or changed, each party receives a letter instructing them to avoid all contact with the other party. This letter also contains instructions for how to submit an appeal and the proper action to take if the other party violates the order.

Both the respondent and the complainant, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for, and terms of, the AAO and shall be allowed to submit evidence in support of their request for review. Information about how to make a request for a review is found in the AAO letter issued.

The University reserves the right to notify Public Safety and Residential Life staff as well as appropriate deans, department heads, supervisors, and Human Resources representatives on a need to know basis. These individuals may notify the appropriate staff members, limiting the number of staff notified to the minimum number of people who need to know.

In all instances, all parties are expected to avoid all contact with each other, while respecting each individual's right to free access to the campus community. Occasionally, an individual's access to certain optional activities or facilities may be restricted. There are three categories of activity to which the Active Avoidance Policy may apply:

- a. Activities related to the performance of academic duties, e.g., attending classes, conducting research for a course, membership on committees or student groups, graduation exercises, etc.
- b. Use of common University facilities, e.g., Wilson Commons, dining facilities, parking areas, libraries, computing facilities, copy centers, access to health care facilities, etc.
- c. Voluntary or optional use of University facilities not related to academic performance, e.g., athletic facilities, attendance at sporting events, public events such as (non-required) lectures, concerts, or rallies, etc.

In all instances when the Active Avoidance Order is implemented, it is the University's goal that all parties are allowed to continue to function within the environment.

In cases of alleged misconduct, it is the respondent's primary responsibility to initiate leaving the area should both parties find themselves occupying the same space. This responsibility remains in effect unless leaving an area would constitute interference with the respondent's ability to fulfill their academic or work responsibilities.

The following guidelines may be used as examples of instances when contact may potentially occur. This list is not exhaustive or intended to limit application of this policy to other situations not described here:

- a. In all instances that involve an inadvertent one-to-one encounter (e.g., in the parking lots, in a hallway or stairwell, walking to or from one area to another), the respondent is instructed to leave the area immediately.
- b. In instances in which attendance at an event or function which involves a group of people is required by both parties (e.g., a required seminar or workshop, etc.), the respondent is instructed to delay entry to that area for as long as possible. If both parties must attend the same event or function, the respondent must take steps to avoid contact with the other party, such as positioning themselves far away and not in the other party's direct line of vision.
- c. In instances in which attendance by the respondent is not required (e.g., at sporting events, public events, concerts, rallies, etc.), once the respondent becomes aware of the other party's presence, they are instructed to leave the area immediately or to delay entry until the other party has left.

Each party is instructed to make contact with the Department of Public Safety when a situation occurs in which one party feels threatened by another party's presence or behavior. All parties are further instructed to contact the judicial officer if one party attempts to make contact with the other or fails to leave an area. Individuals should not attempt to enforce the Active Avoidance Order or confront the other party if they are not complying with the AAO.

### ***Orders of Protection***

The University can assist students in obtaining an order of protection from the family or criminal court system. An order of protection is a document issued by a court to limit the behavior of someone who harms or threatens to harm another person. You can find out more about orders of protection from the New York State Courts website: <https://www.nycourts.gov/faq/orderofprotection.shtml>. Students who would like assistance in obtaining an order of protection can contact the University Title IX Coordinator, the Deputy Title IX Coordinator for your school or the Department of Public Safety.

## **IX. POLICY FOR ALCOHOL AND/OR DRUG USE AMNESTY**

The health and safety of every student at the University of Rochester is of utmost importance. The University of Rochester recognizes that student who have been drinking and/or using drugs (whether the 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.

The University of Rochester strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to University 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 University of Rochester officials or law enforcement will not be subject to the University of Rochester's code of conduct action for violations of the alcohol and/or other drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, sexual harassment or sexual assault.

## **X. INFORMAL RESOLUTION**

When all parties involved in a complaint and the Title IX Coordinator agree that an informal resolution may be appropriate, the University will provide access to a process that directly addresses problematic behavior in the absence of a formal disciplinary proceeding. This process may include mediation or restorative justice practices. If informal resolution is available, parties must acknowledge in writing that:

- I. All parties voluntarily consent to informal resolution;
- II. The University has given the parties written notice disclosing the requirements of the informal resolution process and the extent to which a resolution reached through this process precludes the parties from resuming a formal adjudication process arising from the same allegations; and
- III. At any time before agreeing to a resolution, any party may withdraw from the informal resolution process and resume the grievance process to address the allegations stated in the notice of allegation, as it may be amended.

The Title IX Office can only agree to an informal resolution when there is sufficient information about the nature and scope of the conduct alleged and when there are no aggravating factors.

In addition to the range of supportive measures previously described, as part of an informal resolution process the University may also:

- Provide targeted and/or broad-based training and educational programming for relevant individuals and groups;
- Provide increased monitoring, supervision or security at locations or activities where the misconduct occurred; and
- Any other remedy tailored to the involved individuals to achieve the goals of this policy.

## **XI. ADVISORS**

Any student who wishes to speak with someone at the University regarding an incident of Sexual Misconduct has the right to be accompanied by an advisor of choice (at the party's own expense, if the advisor is a paid advisor), or by an advisor provided by the University. Advisors can assist and advise students throughout the student Sexual Misconduct hearing process and can be present during all meetings and hearings related to such process. Students are strongly encouraged to identify or request an advisor from the Title IX Coordinator or from the Center for Student Conflict Management as soon as practical.

Advisors play an important role in supporting students in a sexual misconduct process. The following guidelines have been identified to ensure advisors are able to effectively assist students during meetings and hearings:

- The advisor is present to provide support to the student and not to serve as a proxy voice for the student. Accordingly, advisors may not speak during the hearing process, including questioning witnesses, speaking to the board, or making statements or arguments.
- Advisors can confer quietly with their advisee as needed, but if there is a need for an extended discussion, the student should ask for a break in the proceedings.
- Advisors cannot direct the student how to answer a question. Advisors may not confer with their advisees or write notes to them when a question to them is pending. Students should provide their own response to the question, not the response their advisor believes would be best.
- As this process is not a legal process, formal rules of evidence do not apply. Objections to questions or evidence are not permitted.
- Advisors generally should conduct themselves quietly and professionally and must not disrupt the proceedings.

## **XII. CONDUCT PROCESS FOR SEXUAL MISCONDUCT**

The University's judicial officer, who works within the Office of the Dean of Students (ODOS), is responsible for adjudicating complaints of Sexual Misconduct by students. The judicial officer may designate another staff member to perform the duties of the judicial officer at any time. Any time the term "judicial officer" is stated in this document it should be interpreted to mean judicial officer or designee.

In consultation with the Title IX Coordinator, the judicial officer determines whether or not an administrative hearing is an appropriate response to the complaint after reviewing the investigative reports prepared by the Department of Public Safety. Upon this review the judicial officer decides whether or not there is sufficient cause to initiate the conduct process or pursue alternative means for resolution.

### **A. Timeline**

When the University investigates a report of Sexual Misconduct, the investigation typically takes approximately four (4) weeks to complete. During this time Investigators will provide respondents and complainants with the opportunity to review all relevant evidence and information in a preliminary report. Respondents and complainants will be provided ten (10) calendar days to submit a response to the preliminary report prior to a final investigative report is submitted. The Title IX Coordinator requests a meeting with the involved students within two (2) business days of receiving the final investigative report. If an administrative hearing is necessary, students receive two (2) weeks advance notice of the hearing date. The total expected timeline from time of report to outcome is typically seventy five (75) days but the process may take longer to complete.

If a party to a sexual misconduct complaint is concerned that an individual involved in the investigation or adjudication of their complaint has a conflict of interest, they can request that individual be removed from the process. Requests for removal based on a conflict of interest should be submitted via email to the Title IX Coordinator or to the judicial officer.

If a report has been filed with both an outside police agency, and the University, the University will generally continue to investigate and, if appropriate, conduct a hearing pursuant to this policy without regard to the timing or progress of the criminal proceeding. However, in some cases, the University may temporarily delay its internal

processes while a law enforcement investigation is ongoing. Such delays will not last more than ten (10) days except when law enforcement authorities specifically request and justify a longer delay.

## **B. Order of Conduct Process**

1. *Notice of Allegation*: When the University begins an investigation into allegations of Sexual Misconduct, the Title IX Coordinator ensures that notice is given, in writing, to the Complainant and Respondent of:
  - a) the existence of the grievance process,
  - b) the allegations of Sexual Harassment, including a reference to the specific code of conduct provisions alleged to have been violated and possible sanctions with sufficient details known at the time (which include the identities of the Parties involved if known, the date and location of the alleged incidents, if known) and with sufficient time to prepare before any initial interview
  - c) a statement that the Respondent is presumed not responsible until a determination is made at the conclusion of the grievance process,
  - d) the availability to each Party of an advisor of their choice, who may be an attorney (but is not required to be) and who may inspect, and review evidence gathered in the investigation. If a party does not have an advisor, the University will provide an advisor of its choice.

If, during the investigation, the University decides to investigate additional allegations not included in the initial notice or to pursue investigation of the conduct under other policies, it will give notice of additional allegations and the other relevant policies to the Parties.

In this Notice of Allegation the Respondent will be informed of their right to request Supportive Measures (Appendix B).

2. *Preliminary Investigation Report Shared With Parties*: The respondent and complainant are provided a copy of the preliminary investigation report and given 10 days to review the report and provide comments to the Investigator for inclusion in the Final Investigative Report.
3. *Initial Meeting(s)*: If the Respondent is interested in accepting responsibility for the alleged policy violations, and the complainant agrees to resolve the issue without a hearing, the judicial officer for the University will schedule an initial meeting to discuss the University Responsible Option. If the complaint cannot be resolved through the Responsible Option a formal hearing will be schedule.
4. *Pre-Hearing Conference Meeting(s)*: The Title IX Coordinator meets with the complainant and the respondent separately to provide and explain the hearing notification letter which outlines the charges to be addressed in the hearing and to discuss the date, time and location of the hearing. The hearing date is generally no less than two (2) weeks from the issuance of this notification letter. During this meeting, the Title IX Coordinator also explains the hearing process in detail, answers any questions and provides access to the relevant investigative reports prepared by investigators for the process. The Title IX Coordinator also explains deadlines for submitting evidence and names of potential witnesses (typically this information is due one (1) week prior to the hearing). Please note that character witnesses are not permitted in hearings.
5. *Hearing*: Sexual Misconduct hearings can use multiple forums as determined by the judicial officer:

- a) video conference from multiple locations either on campus or away from campus;
- b) private conference room spaces on campus; or
- c) audio only phone conference.

No matter the forum for the hearing, respondents and complainants shall never communicate directly to each other or see each other; hearings are typically chaired by a member from the Center for Student Conflict Management along with one additional individual chosen from a pool of trained University administrators. All hearing board members must have received annual training on issues related to acts of sexual or gender-based misconduct, including how to conduct an investigation and hearing process in a way that protects the safety of the complainant and promotes accountability, the effects of trauma, impartiality, the rights of the respondent (including the right to a presumption that the respondent is not responsible until a finding of responsibility is made pursuant to this policy), and applicable University policies and procedures. Through this objective and fair process that provides a meaningful opportunity for all parties to be heard and is guided by the fundamental fairness standards below, the judicial officer determines (a) whether, based on a preponderance of evidence (whether it is more likely than not) (Appendix B), a violation occurred and (b) appropriate sanction(s) for a finding of responsibility.

6. *Post Hearing Meeting*: After the hearing, the hearing board chair or Title IX Coordinator will communicate with the respondent and complainant to discuss the outcome of the hearing and share information about how to submit an appeal.<sup>5</sup>

### **C. Fundamental Fairness in Hearing Process**

The fundamental fairness points outlined below apply to all students who participate as complainants or respondents in Sexual Misconduct hearings to determine whether the Student Sexual Misconduct policy has been violated.

1. All charges must be in writing and presented to the respondent and complainant at the time of notification of the hearing.
2. The notice of charges shall include a reference to the specific provision(s) of this policy alleged to have been violated and the possible sanctions that may be imposed if the respondent is found responsible. This notice shall also include, to the extent known, the date, time, location and factual allegations concerning the alleged violation.
3. The respondent and complainant shall be informed of their rights in the pre-hearing conference meeting with the Title IX Coordinator.
4. Except in cases where a hearing is required, the respondent and complainant will generally be offered the opportunity to resolve the case through a responsible option. Once a responsible option has been offered

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<sup>5</sup> If the respondent is a student in SMD or SON, the judicial officer will disclose the findings, recommendations, and relevant case materials to the appropriate disciplinary body within the school in which the student is enrolled. That body will make the ultimate determination regarding the sanction and will communicate the result to the respondent.

each party will be afforded two (2) days to inform the judicial officer whether they wish to resolve the complaint without a hearing.

5. If a hearing will be held, the respondent and complainant shall typically be afforded at least fourteen (14) days' notice of the hearing date in writing; however, the judicial officer may extend or shorten timelines to accommodate the academic calendar or other extenuating circumstances.
6. Relevant reports, documents and other evidence may be shared with the respondent and complainant electronically or will be made available for review in the Center for Student Conflict Management prior to the hearing, in the judicial officer's discretion. These materials may not be duplicated by anyone other than the judicial officer. New information may not be submitted after the case file is closed which normally occurs seven (7) days prior to the hearing, unless extraordinary circumstances have prohibited the inclusion of such information within the standard timeline.
7. The respondent and complainant shall each have the right to be accompanied by an advisor of their choice as described in Section XI of this policy. Names of potential advisors who are well informed about conduct procedures are available from the Center for Student Conflict Management. Respondents and complainants are strongly encouraged to choose an advisor knowledgeable in the conduct process.
8. The respondent and/or complainant will participate in the hearing while seated in separate hearing rooms connected electronically (unless both parties agree otherwise) in order to allow full participation of the parties.
9. Hearings are recorded. A recording of the hearing will be available for review by the parties and their advisors in the event of an appeal and shall otherwise be maintained and available for review by the parties for a period of not less than five (5) years after the hearing. The recording remains the property of the University and will not generally be released outside the University.
10. The respondent and complainant shall each have the opportunity to present evidence and testimony at the hearing as well as answer questions and to submit the testimony of material witnesses on their own behalf. Relevant witness statements, public safety reports, residential life incident reports, and depositions shall be acceptable as documentation submitted to a board. All other documentation is subject to review by the judicial officer prior to the time of the hearing. Copies will not be released.
11. All relevant evidence and testimony, including the relevant public safety reports, the text of statements made by the respondent and complainant prior to the hearing, and any relevant physical evidence shall be available to both respondent and complainant for potential use at the hearing; however, legal rules of evidence shall not apply. The Title IX Coordinator will have discretionary authority to determine whether particular questions, evidence or information will be accepted or considered, including whether a particular witness will or will not be called and, if called, the topic(s) that the witness or the parties will be permitted to address (Appendix B).
12. The complainant and the respondent shall have the right to exclude their own prior sexual history with persons other than the other party and/or their own mental health diagnosis and/or treatment from admission in the hearing for purposes of determining responsibility. Past findings of violations of this and other institutional policies (including violations involving Sexual Misconduct) may be considered for sanctioning purposes.
13. The respondent and complainant shall have the opportunity to question (indirectly or directly as determined by the chair of the hearing board) all witnesses present during the hearing. This does not necessarily include the right to confront witnesses in person.

14. The respondent and complainant will be given an opportunity to make impact statements which will become part of the case record to be reviewed by the judicial officer and by any panel considering an appeal.
15. The respondent and complainant as well as all other participants are expected to cooperate during the hearing and be truthful in their testimony and responses to questions. If a respondent or complainant does not attend a hearing or declines to give testimony or answer questions, the hearing board shall consider the available evidence and decide the case based on consideration of that evidence.
16. The hearing board shall determine whether it is more likely than not (i.e., by a preponderance of the evidence) (Appendix B) that the respondent violated the Student Sexual Misconduct policy.
17. The hearing board chair or Title IX Coordinator will notify the respondent and the complainant of the decision (including the rationale for the decision and sanctions (if any), and any findings of fact) simultaneously in writing.<sup>6</sup>
18. The respondent and complainant have the right to appeal a final decision to an appeal panel which is fair and impartial and does not include individuals with a conflict of interest (see letter E below).
19. Both the respondent and the complainant will be informed of the outcome of the hearing and the outcome of any appeal without a commitment to protect the confidentiality of the information. It shall be the decision of each party whether that party will disclose or discuss the outcome of the hearing and/or the appeal. It is important to note however, that all information obtained during the course of the judicial process is protected from public release until the appeals panel makes a final determination unless otherwise required by law.

#### **D. Potential Sanctions**

Typical sanctions for Sexual Misconduct as outlined in this policy may include disciplinary probation, active avoidance orders, prohibition from various areas and events, educational assignments, suspension, and/or expulsion from the University. Students responsible for assaulting another person should expect, minimally, to be suspended from the University; in many cases, expulsion will result. More than one of the sanctions listed below may be imposed for any single violation.

Possible sanctions include, but are not limited to:

- **Disciplinary Warning**, including an official letter of reprimand to the student stating that their behavior is in violation of University policy and may not recur.
- **Community Restitution**, which may require individuals or groups to write a letter of apology, participate in a designated service project, or give an identified community (on or off campus) a number of service hours to be completed within a specified time period. When appropriate, the individual or group may be required to devise its own community restitution plan to be approved by the judicial officer.
- **Counseling Intervention**, which may be recommended, and in some cases required, when behavior indicates that the counseling may be beneficial to the student. Specific circumstances will determine an appropriate mental health service referral, which may include drug, alcohol, and other educational workshops. Such mandated interventions may be at the student's cost.

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<sup>6</sup> If the respondent is a student in SMD or SON, the judicial officer will disclose the findings, recommendations, and relevant case materials to the appropriate disciplinary body within the school in which the student is enrolled. That body will make the ultimate determination regarding the sanction and will communicate the result to the respondent.

- **Financial Restitution**, which may require individuals to restore or replace within a specified time, property which has been damaged, defaced, lost, or stolen.
- **Revocation or Restriction of Privileges**, for the use of designated University facilities or programs.
- **Disciplinary Probation**, which consists of an official notice that further violation of University policy will result in serious consideration being given that the individual or group not be permitted to continue as a student or group at the University of Rochester. This is a serious warning which serves as a check on the student's or group's future behavior. Once a student or group is on probation, any further disciplinary action will be more severe. Probation is given for a period of time and can limit the activities or privileges of a student or group. For example, students on probation are not able to join a fraternity or sorority nor are they permitted to study abroad.
- **Deferred Removal from University Housing**, which means that any violations of the standards of student conduct committed by the student during the deferred removal period will result in the student being immediately removed from housing and banned from the campus residential areas.
- **Deferred Suspension**, which means any violations of the standards of student conduct committed by the student during the deferred suspension period will result in the student being immediately separated from the University of Rochester.
- **Suspension from University Housing**, which involves revocation of the privilege of living in University housing for a certain period of time. Students or groups who have their housing contracts or leases terminated for conduct reasons are not entitled to a reimbursement.
- **Suspension**, which generally involves the revocation of the privilege of attending the University and using its facilities for a typical period of one year. Conditions for re-entry may be specified and every student needs to apply for readmission.
- **Expulsion**, which means the student is permanently separated from the University. The student may not apply for readmission to any program.

*Information about Transcript Notations:* As required by law, transcripts of students found responsible for certain Sexual Misconduct violations and suspended or expelled because of it, will bear a notation indicating that finding and sanction.

*University of Rochester Transcript Notation Policy:* Any undergraduate or graduate student who is charged with a non-academic disciplinary violation may have the phrase “disciplinary charges pending” added to any transcript issued after charges are formally brought by the University. If the student is found not responsible for the violation, the notation will be removed. If the student is found responsible and suspended or expelled, the transcript will say the sanction was imposed “after a finding of responsibility for a code of conduct violation.”

Notations of expulsion shall be permanent. Notations for suspension may be removed one year after the suspension period has ended. Students may petition for removal of the notation at the end of the suspension period unless their suspension was for conduct that would be a “Crime of Violence” under the Clery Act (crime of violence definitions appear in the University publication Think Safe). Students who withdraw with pending, unresolved disciplinary charges will have a permanent notation on their transcript that they withdrew with conduct charges pending. The full Transcript Notification Policy can be found on page 19 of the [Standards of Student Conduct](#).

## E. Appeals

1. Grounds for Appeal: Appeals are heard by a panel of three staff members who have received training similar to what hearing board members receive. Information regarding how to submit an appeal is provided in the decision letter at the conclusion of the hearing process. An appeal is intended to provide an opportunity to consider previously overlooked, exceptional, or unfair circumstances pertinent to the case. It is not intended to be a rehearing of the events presented at the original hearing. The only grounds on which an appeal can be made are:
  - The sanction was not appropriate;
  - New information exists that was not available at the time of the hearing and this information is sufficient to alter the decision; and/or
  - A procedural error occurred during the process that is substantive enough to alter the decision.
2. Process of Appeal: An appeal must be made in writing to the panel as described in the decision letter within the timeline established in the letter officially stating the original decision. Instructions on how to submit an appeal letter are included in the decision letter. The appeal letter should state the grounds on which an appeal is made and what the student believes supports an appeal on those grounds. The appeal panel may review some or all of the material from the original hearing when considering an appeal and may consult with anyone they feel would be helpful in deciding the appeal. The appeal panel is not required to meet with the parties, but if it chooses to meet with either party, it must meet with the other party as well.

When one party to the case appeals the decision, the appeal panel notifies the other party that an appeal has been submitted. The second party has seven (7) days from this notification to respond to the appeal in writing explaining their perspective of merit of the issues raised. The appeal panel then responds to both parties with a final determination, typically within seven (7) days of the submission of all appeal documentation.

3. Effect of Appeal: Both parties receive a written decision from the appeal panel. On appeals, the panel may uphold or modify the decision and/or the sanction (if applicable), or the case may be referred to the original hearing board or a new hearing board for a new or further hearing. At the discretion of the appeal panel and upon the recommendation of the judicial officer, where appropriate, all or some of the sanctions may be suspended pending the final decision.

**Appendix A**  
**Title IX Coordinator and Deputy Title IX Coordinators List**



**Julia Green**  
**(She/Her/Hers)**

**Title IX Coordinator and  
Assistant Vice President for Civil  
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Wallis Hall 147A  
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## **Appendix B**

### **Sexual Misconduct Policy Glossary**

*Key terms used in the Student Sexual Misconduct Policy are defined below and in relevant sections throughout the Policy.*

**Title IX:** Title IX of the Education Amendments of 1972 is a Federal civil rights law that prohibits sex discrimination at educational institutions that receive federal funding.

**PADH or University's Policy Against Discrimination and Harassment:** The University addresses non-student sexual misconduct (as well as harassment on the basis of race, religion, disability, etc.) through this policy. If you believe you have been harassed or assaulted by a staff or faculty member, or by another member of the University community or a visitor, you also have the option of making a formal complaint under the University's Policy Against Discrimination and Harassment, which can be found here: [Policy Against Discrimination and Harassment](#). If you wish to file a formal complaint, the form to do so can be found here: [PADH Report](#).

**Reasonable person:** The term "reasonable person" is a legal term that the courts have generally defined as a prudent, hypothetical person with ordinary sensitivities who embodies a community ideal of reasonable behavior.

**Coercion and intimidation:** Include (1) using physically or emotionally manipulative conduct against the complainant or (2) expressly or implicitly threatening the complainant or a third party with negative actions that would compel or induce a reasonable person in the complainant's situation to engage in the sexual activity at issue. Examples of sexual coercive statements include those such as; "I will ruin your reputation"; "I will tell everyone"; "your education at UR will be over" or "I will post an image of you naked." Examples of force or a threat of harm include (1) using physical force or (2) a threat, express or implied, that would place a reasonable person in the complainant's situation in fear of physical harm to, or kidnapping of, themselves or another person. Coercion is evaluated based on the intensity, frequency and duration of the comments or actions.

**Sexual Misconduct:** Umbrella term for prohibited forms of sexual misconduct that include, but are not limited to: sex or gender-based harassment, sexual assault, non-consensual sexual contact, sexual exploitation, dating violence, domestic violence, stalking, and retaliation. Sexual misconduct includes sexual conduct that occurs by force or threat of force or without affirmative consent, including where the person is incapacitated. This definition encompasses a range of sexual conduct that could also fall within the definition of sexual harassment.

**Complainant:** Individuals who have reported that they have been victim of behavior that violates the Sexual Misconduct policy are referred to as "complainants".

**Respondent:** In the conduct process, students who are alleged to have violated the Sexual Misconduct policy are referred to as "respondents".

**Severe:** Of a great degree, significantly more than minimal.

**On-Going:** Repeatedly engaging in conduct.

**Pervasive:** Having a widespread presence in or impact on an environment or person.

**Intimate Partner Violence (IPV):** Also referred to as dating violence, domestic violence, relationship violence, or intimate partner abuse. Intimate Partner Violence can encompass a broad range of behavior including, but not limited to, physical violence, sexual violence, OR non-physical tactics, including psychological and/or emotional violence, control, and fiscal abuse. It may involve one act or an ongoing pattern of behavior. Intimate partner can refer to a person who is, or has been involved in a sexual, dating, spousal, domestic, or other intimate relationship with the respondent. Intimate Partner Violence may take the form of threats, assault, property damage, violence or threat of violence to one's self, one's sexual or romantic partner, or to the family members or friends of the sexual or romantic partner. Intimate Partner Violence affects individuals of all sexes, sexual orientations, gender identities, gender expressions, races and social and economic backgrounds.

**Substantial emotional distress:** Significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**Responsible Employee:** A responsible employee includes any employee who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty. Responsible employees are required to report information they receive from students about incidents of sexual violence to the school's designated Title IX coordinator, or Deputy Title IX Coordinators as soon as possible. A list of those designated as Responsible employees can be found under [Section II](#).

**Confidential Resource:** Individuals who are confidential resources will not report information to law enforcement or college officials without your permission, except in extreme circumstances, such as a health and/or safety emergency, imminent threat to self or others, or where there is mandatory reporting of suspected child abuse. Accordingly, sharing information with a confidential resource will not result in a report to the University, an investigation, or disciplinary action. A list of confidential resources can be found on [Page 2](#).

**Supportive Measures:** Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. These measures are designed to restore or preserve equal access to the University's educational program or activity without unreasonably burdening the other Party.

**Private Resource:** Even University offices and employees who are not Confidential Resources will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution.

**SANE:** Sexual Assault Nurse Examiner. A SANE is a registered nurse specially trained to provide care to patients who have experienced sexual assault. The SANE conducts medical forensic examinations, can provide medications and treatment, can preserve biological evidence for a later date, and can serve as an expert witness in a court of law. The SANE program may contact the police, but patients can choose whether or not to talk to the police.

**Interim Measures:** Interim measures are those services, accommodations, and other assistance the University puts in place after receiving notice of alleged sexual misconduct but before any final outcomes (investigatory, disciplinary, or remedial) have been determined. Depending on the

circumstances, interim measures may be modified, supplemented or withdrawn before, during or after the final outcome of any investigation.

**Preponderance of the Evidence:** The standard used in a burden of proof analysis in Student Sexual Misconduct conduct process. This means that the investigation determines whether it is more likely than not that a violation of the policy occurred.

**Third Party:** A third party is an individual or group who is not the complainant or the respondent.

**Witness:** A person believed to have information regarding an incident which may violate this Policy, including but not limited to someone present when the incident occurred or prior to the incident occurring, someone the complainant or respondent communicated with about the incident, and/or someone who may have information relevant to the incident. Witnesses cannot be called solely to speak about an individual's character.

## Appendix C

### Scenarios

The following scenarios illustrate how choices during situations common to college life, can result in a finding of a responsibility for violating our code of conduct. These scenarios were designed to clarify details of the policy and do not reflect the factual complexities and ambiguities that Sexual Misconduct allegations typically include.

- Angelique and Michael have been in an ongoing relationship for a year-and-a-half and have engaged in consensual sexual intercourse. One night while at Michael's off campus apartment the while becoming intimate, Angelique stops and says she doesn't feel like having sex that night. Michael continues to touch her, saying that she got him excited and it wasn't fair of her to lead him on like that. Again, Angelique tells him she does not want to have sex, and then is silent. Michael decides she has given in, and proceeds to have sexual intercourse with her. *This is a violation of the Sexual Misconduct Policy: Sexual Assault & Dating Violence. Michael had sexual intercourse with Angela without her affirmative consent. The fact that Angela has freely consented to sexual intercourse with Michael in the past does NOT mean he has her consent in this situation.*
- Robert and Felix have been flirting with each other all night at a house party off campus. Around 12:30 a.m., Felix excuses himself to find a bathroom. Robert notices Felix slurring his speech. Robert wonders if Felix went to the bathroom to vomit. When Felix returns, the two begin flirting more heavily and move to a couch. As the conversation continues, the two become more relaxed and more physically affectionate. Robert soon suggests they go back to his room, and Felix agrees. As they walk down the stairs, Robert notices that Felix looks unstable and offers his arm for support and balance. When they get back to his room, Robert leads Felix to the bed and they begin to become intimate. Felix becomes increasingly passive and appears disoriented. Robert soon begins to have sexual intercourse with him. The next morning, Felix thinks they had sex but cannot piece together the events leading up to it. *This is a violation of the Sexual Misconduct Policy: Sexual Assault. Felix was clearly incapacitated due to alcohol and thus unable to consent to engage in sexual activity with Robert.*
- Alessia and Lamar have been friends since they were in the same orientation group during their first year. Over time, Alessia told Lamar that she was interested in being more than friends with him. Lamar told Alessia that he didn't think it was a good idea and didn't want to ruin their friendship. Lamar became annoyed with Alessia after she wouldn't stop pursuing a relationship with him and asking him to give them a try. This caused Lamar to stop hanging out with Alessia, and he would ignore her text messages. Eventually, Lamar felt that he needed to block Alessia's number and her social media. Alessia created a fake Instagram account and sent a direct message Lamar to ask why he had blocked her and for him to provide clarity on why he stopped hanging out with her. Lamar then told Alessia to stop contacting him and he blocked her second account. *This is a violation of the Sexual Misconduct Policy: Stalking. Alessia has sexually harassed Lamar and stalked him by continuously asking for a relationship and by creating another social media account in order to contact him. Although Lamar did not specifically tell Alessia to stop contacting him at first, a reasonable person would deduce that he did not want to communicate with her given that he was ignoring her messages and blocked her on social media.*

- Erin is talking to several of her friends while at a bar downtown. Chang, a student she knows from chemistry class, comes up behind her and places his arms around her waist. She says hi to Chang and continues her conversation. After a while, she realized that Chang has moved his hands up to her breasts. She turns to him and tells him to stop, saying she doesn't want to be touched in that way and that he should have more respect for her. He laughs, tells her she takes herself too seriously, and again begins to grope her. *This is a violation of the Sexual Misconduct Policy: Non-Consensual Sexual Contact. Chang touched Erin in a sexual way without her consent and continued to do so after she told him to stop. This behavior is a form of Sexual Misconduct.*
- Kalliyah, a student at the University of Rochester, and Noah, a student from a nearby College, have been together for six months. She often tells her friends stories of Noah's sexual prowess and decided to prove it to them. One night, she and Noah engage in consensual sexual intercourse. Without Noah's knowledge, Kalliyah sets up her digital camera to videotape them having sex. The next evening, she uploads the video to an online video-sharing site and discusses it with her friends online. *This is a violation of the Sexual Misconduct Policy: Sexual Exploitation. Noah's consent to engage in sexual intercourse with Kalliyah did not mean Kalliyah had obtained his consent to videotape it or broadcast the event to others.*
- Abdulaziz and Myra have been intimate for several days. One night, Myra calls Abdulaziz and asks him to come over to her off campus apartment. When he arrives, Myra kisses Abdulaziz passionately and leads him into the bedroom. They each express their excitement and desire to hook up and are soon making out heavily in Myra's bed. After a while, Abdulaziz tries to engage in oral sex with Myra. Myra tells Abdulaziz that she really likes him, but that she doesn't feel ready for that. Abdulaziz tells Myra she's just being shy and ignores her when she repeats that she doesn't feel ready. Abdulaziz then accuses her of leading him on. Eventually, Abdulaziz proceeds with oral sex, although Myra never gave permission. *This is a violation of the Sexual Misconduct Policy: Sexual Assault. Abdulaziz did not receive consent from Myra and has committed Sexual Misconduct.*
- Alex and Sam have an interest in each other but have never become intimate because Sam has a boyfriend back home. One night Alex and Sam meet at a party and begin making out on the dance floor. Eventually Sam invites Alex back to the dorm room where they have consensual intercourse. Sam's roommate enters the room and finds Sam and Alex in bed. Sam is distraught over the roommate finding them and fears that their boyfriend back home may find out. Sam contacts the RA and claims there was no consent. *This is not a violation of the Sexual Misconduct Policy because it was reasonable, based on Sam's actions, for Alex to believe that Sam had consented.*

*(Adapted from Duke University's Sexual Misconduct Policy)*

## Appendix D

### What You Can Do if You or Someone Else May Have Experienced Sexual Misconduct

The University has multiple policies for the purpose of ensuring all complaints of sex and gender based misconduct are responded to efficiently, thoroughly and in accordance with relevant laws. These policies address substantially similar behavior but vary based on the location of the incident, parties involved, and severity of prohibited behavior. The University is committed to providing individuals with all of their rights and options regardless of which University policy pertains to the alleged act of misconduct. To determine what University Policy should be applied, the University Sexual Misconduct Intake Team will review all relevant information provided in order to inform the complainant of the appropriate policy and procedures for their specific complaint.

### INITIAL MEETING, ASSESSMENT, AND SUPPORTIVE MEASURES

#### **Meet with a University Title IX Coordinator or other appropriate staff in the Office of Equity and Inclusion (“OEI”).**

During this meeting, an initial assessment of the report will be made to determine whether the alleged behavior violated University policy.

Also, during this meeting, you will be provided information regarding options to proceed, and where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible. The University staff member will explain 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. If a request for a meeting is declined, the Title IX Coordinator or OEI staff member will conduct an initial assessment utilizing the information available.

The University Title IX Coordinator is Julia Green (*she/her/hers*). Julia can be reached by calling (585) 275-1654 or via e-mail at [julia.green@rochester.edu](mailto:julia.green@rochester.edu). You are welcome to bring a Support Person to any meeting relating to your sexual misconduct concerns. The University Title IX Coordinator, the Deputy Title IX Coordinators, and other OEI staff are private, not confidential resources.

#### **Request Supportive Measures and Accommodations:**

Accommodations are available to anyone who has come forward about an incident of sexual misconduct. These accommodations are available to you, regardless of your decision to make a formal complaint. Supportive measures include those designed to protect the safety of individuals, to protect the safety of the University’s educational or work environment, or to deter sexual harassment.

Supportive measures may include access to counseling, extensions of deadlines, or other course-related adjustments, modifications of work or class schedules, campus

escort services, issuance of Active Avoidance Orders (AAO) requiring restrictions on contact between individuals, changes in work or housing locations, leaves of absence, temporary reassignment of work, increased security and monitoring of certain areas of the campus, and other similar measures. Supportive measures may be requested by the impacted individuals or imposed by the University on its own initiative.

If you would like to request an accommodation, please either respond to this message directly, or email the office at [titleix@rochester.edu](mailto:titleix@rochester.edu).

## CONFIDENTIAL RESOURCES

Individuals who are confidential resources will not report information to law enforcement or University officials without your permission, except in extreme circumstances, such as a health and/or safety emergency, imminent threat to self or others, or where there is mandatory reporting of suspected child abuse. Accordingly, sharing information with a confidential resource will not result in a report to the University, an investigation, or disciplinary action.

### **Connect with a counselor at the University Counseling Center: 585-275-3113 (confidential).**

University Counseling Center (UCC) can help provide mental health support during a difficult situation 24 hours a day with their on-call counselor and appointments are also available. Reports made to UCC or UHS are confidential.

### **Contact RESTORE Sexual Assault Services: 585-546-2777 (confidential).**

RESTORE provides a 24-hour confidential hotline, advocacy support, short-term counseling, and legal support. RESTORE is not affiliated with the University of Rochester and reports made to RESTORE are confidential. All RESTORE's services are free and confidential. For more information visit <https://restoresas.org/>.

### **Contact Willow Domestic Violence Center: 585-222-7233 (confidential).**

Willow Center offers a range of emergency and non-emergency supportive services including *24-hour crisis hotline, emergency shelter, court accompaniment, short-term counseling, and support groups*. All Willow's services are free and confidential. For more information visit <https://willowcenterny.org/>.

### **Connect with a counselor through the Employee Assistance Program: 585-276-9110 (confidential).**

Employee Assistance Program (EAP) is a confidential service that provides employees and family members of employees the opportunity to discuss personal or work-related problems with a professional counselor 24 hours a day, 365 days a year. There is no cost to employees and their families to use the services of EAP.

**Confidentially disclose the incident and obtain services from state or local government agencies. More information on additional resources is located on page 2.**

## **ADDITIONAL FORMAL REPORTING OPTIONS**

**If the accused is an employee (Faculty/Staff/Contractor/Visitor of the University), disclose the incident to University Human Resources or the University Equal Opportunity Investigators at [PADH@rochester.edu](mailto:PADH@rochester.edu) via the Policy Against Discrimination and Harassment process.**

The University's Policy Against Discrimination and Harassment (PADH) process is utilized when a complaint of sexual misconduct or harassment based on a protected class is made against faculty, staff, residents, fellows, postdoctoral appointees, volunteers or a visitor to University property, unless the Title IX policy applies (the Title IX Coordinator can explain the different processes in more detail). You can file a PADH report online [here](#).

### **Report to the Department of Public Safety (DPS) (585-275-3333).**

Public Safety can help you file a formal report to the University about the incident. Public Safety can also assist you in making a report to the appropriate legal authority (Rochester Police, Monroe County Sheriff's Office, etc.) You can choose to simultaneously report the incident to the University and the appropriate law enforcement agency for investigation and response. You can also choose to only report the incident to local law enforcement or only report the incident to the University. You are encouraged to bring an advocate or advisor of your choosing to any meeting with Public Safety.

### ***Important Information About Reporting:***

The University will seek your consent prior to conducting an investigation. You may decline to consent to an investigation, and that determination will be honored unless the University determines that failure to investigate may result in harm to you or other members of the UR community. **Please note that the University must respond to reports of misconduct involving employees.** If the University determines that an investigation is required, you will be notified and immediate action necessary to protect and assist you will be taken.

If you disclose an incident to a non-confidential resource, but wish to maintain confidentiality or do not consent to the institution's request to initiate an investigation, the Title IX Coordinator will weigh your request against its obligation to provide a safe, non-discriminatory environment for all members of our community, including you. The factors to be considered include, but are not limited to:

- whether the accused party has a history of violent behavior or is a repeat offender,
- whether the incident represents escalation from previously noted behavior,

- the increased risk that the Respondent will commit additional acts of violence,
- whether the accused party used a weapon or force,
- whether the impacted person is a minor,
- whether the University possesses other means to obtain evidence such as security footage,
- whether the report reveals a pattern of perpetration at a given location or by a particular group, and
- whether the accused party is an employee of the University.

**File a criminal report with a local police department, agency, or New York State Police Campus Sexual Assault Victims Unit (NYSP Sexual Assault Victims Unit non-emergency toll-free hotline 1-844-845-7269).**

DPS can help you connect with the appropriate law enforcement agency if you wish to report the incident to the police. Calling 911 to directly connect to local police is an option as well. The police officers who respond may take a report and explain possible legal options including temporary and permanent orders of protection. You can choose to simultaneously report the incident to the University and the appropriate law enforcement agency for investigation and response.

**File an anonymous report.**

If you wish to make a report about the incident to the University without including your name or personally identifiable information you may utilize the below form. The Sexual Misconduct report form is used to gather information about the date, type, and location of an incident when the person who experienced the incident does not wish to disclose their identity and/or participate in the investigatory process.

You can file a report online here: <https://www.rochester.edu/sexual-misconduct-report-form/>

**Do nothing.**

You may also make it known that you do not want anything to be done with the situation right now. As mentioned above, while the University will most often honor those wishes there are circumstances when concerns about the safety of the University community are raised by the report. In those circumstances, the University will investigate and respond as appropriate without the cooperation of the student who made the initial report.

## **Appendix E**

### **Student Bill of Rights**

Under New York State law, 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.