

# Sexual Misconduct Policy Governing Students

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*RAMAPO COLLEGE OF NEW JERSEY*

*Academic Year 2018 – 2019*

## PREFACE: EMERGENCY INFORMATION

Ramapo College is committed to providing timely support and assistance to victims and/or survivors<sup>1</sup> of sexual assault or misconduct. Students who experience an incident of sexual misconduct should consider the information and resources provided below.

### FOR IMMEDIATE ASSISTANCE:

#### 1. Confidential Support:

Any student in need of immediate emotional support should call Counseling Services at 201-684-7522 and request to speak with a confidential counselor. Survivors may also contact the healingSPACE Sexual Violence Resource Center to speak with a confidential advocate 24 hours a day, 7 days a week by calling 201-487-2227.

#### 2. Reporting:

Students are strongly encouraged to report sexual misconduct to College authorities and to the police in order to protect themselves and others. Even if the survivor does not want to make a formal incident report or file charges, he or she still has the right to other victims' services.

To file a report, a student can contact any of the following:

**The Public Safety Department:** *(available 24 hours a day, 7days a week)*  
(201) 684-6666  
Office Location: C-102

**Title IX Coordinator:** *(available during regular business hours)*  
Kat McGee, Director of Title IX, ADA and Compliance Training  
E-mail: [kmcgee@ramapo.edu](mailto:kmcgee@ramapo.edu)  
Phone: (201) 684-7220

**The Mahwah Police Department:** *(available 24 hours a day, 7days a week)*  
(201) 529-1000  
<http://www.mahwahpd.org/>

If the assault took place within the past five days the responding officer will ask the survivor if he or she wishes to activate the Bergen County Sexual Assault Response team (SART). SART is a free coordinated community response to assist a survivor in the aftermath of a recent sexual assault. It has been designed to offer a compassionate, victim-centered approach while collecting evidence that can be vital to the investigation and prosecution of the crime. Obtaining a forensic exam does not require that a police report be filed.

Although the College strongly encourages all members of its community to report violations of this Policy to law enforcement, it is the victim's choice whether to make such a report and victims have the right to decline involvement with the police. The College's Title IX Coordinator or Director of Public Safety (or their designees) will assist any victim with notifying local police if he/she so desires.

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<sup>1</sup> A note on language: The words "victim" and "survivor" are used interchangeably here. Ramapo College respects the decision of those who have experienced violence to identify as a victim or a survivor. We recognize that choosing to identify as a survivor is an important part of the healing process for some who have experienced sexual violence.

### **ANONYMOUS ONLINE REPORTING:**

A reporting form is available at [ramapo.edu/publicsafety/sexual-assault](http://ramapo.edu/publicsafety/sexual-assault) (See “*Report an Incident Now*”). The form may be filled out anonymously, or the survivor may choose to include identifying information. This form is **not** to be used for emergencies that require an immediate response.

### **MEDICAL TREATMENT AND EVIDENCE PRESERVATION:**

After an incident of sexual assault occurs, the victim should consider seeking medical attention as soon as possible at a local emergency room such as Valley Hospital in Ridgewood, New Jersey to have forensic evidence collection completed to preserve evidence in case the survivor decides to file a police report or pursue criminal charges. **Emergency transportation is available:** please contact the Public Safety Department at (201) 684-6666 and request to speak with an Emergency on Call Counselor to request transportation.

A victim does not have to make a criminal complaint or decide whether to file charges to have forensic evidence collection completed, however the survivor must use his/her legal name. In circumstances of sexual assault, if a complainant does not opt for forensic evidence collection, health care providers still can treat injuries and take steps to address concerns of pregnancy and/or sexually-transmitted infection.

It is important that a survivor of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen/area where she or he was assaulted within 96 hours after the incident occurred so that evidence may be preserved. Complainants of sexual assault, domestic violence, dating violence, or stalking also are encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if any exist that may be useful to College investigators, Public Safety personnel, or local police.

### **INVESTIGATIONS:**

Survivors who wish to pursue an investigation may choose to:

1. Contact the Mahwah Police Department to pursue a criminal investigation.
2. File civil charges in a civil court.
3. Report to the Ramapo College Title IX Coordinator (see contact information on Page 2). An investigation of a campus policy violation is independent from criminal or civil investigations.
4. Decide not to file charges or make a report for investigation. Survivors are strongly encouraged but not required to report the incident. Survivors have the right to be free from any suggestion that victims must report the crime to be assured of any other rights or resources. Campus personnel will not pressure survivors to report a crime if the survivor does not wish to.

### **ACCOMMODATIONS:**

A survivor may make a request for accommodations to the Title IX Coordinator. The survivor does not need to participate in an investigation or file charges in order to request accommodations. The Title IX Coordinator will work in conjunction with relevant parties to determine which measures are appropriate to ensure the victim’s safety and equal access to educational programs and activities. Accommodations include:

- Accommodations related to academics, transportation, medical services and counseling.
- Relocation in their on-campus housing assignment or campus job if either will bring them into proximity with the perpetrator. Survivors can also request changes to their class schedule if they have classes in common with the accused.
- A “no-contact” order may be put in place between the survivor and the accused.
- Providing victims with financial aid-related information, such as how to apply for a leave of absence or addressing concerns about loan repayment.

**More information about resources and reporting is available at: [www.ramapo.edu/get-support](http://www.ramapo.edu/get-support)**

## TABLE OF CONTENTS

I. Introduction .....	6
II. Notice of Coordination with Non-Discrimination Policy & Notice of Non-Discrimination .....	7
III. Title IX Coordinator; Deputy Title IX Coordinator & Investigators.....	7-8
IV. Definitions .....	8-13
A. Definitions of Prohibited Sexual Misconduct	
B. Definition of Affirmative Consent	
C. Other Definitions	
V. Confidentiality .....	13-15
A. Confidential Health, Counseling, Athletic Training Advocacy and Pastoral Services	
B. Prevention Education Coordinator	
C. Confidentiality of Records	
VI. Reporting .....	15-18
A. Contact Information for Reporting	
B. Reporting to Certain College Employees	
C. Essentials of a Report	
D. Medical Attention	
E. Resources	
F. Right to Pursue Criminal Charges	
G. Timing of Reporting	
H. Anonymous Online Reporting	
VII. Investigation & Resolution.....	18-23
A. Process	
B. Appeals	
C. Personal Advisors	
D. Time Frames	
E. Informal Resolution	
F. Withdrawal Prior to the Conclusion of an Investigation	
VIII. Interim Measures & Protective Measures .....	23
IX. Sanctions.....	23-25
X. Jurisdiction & Reporting Timeframes.....	25-26
XI. College Alcohol & Drug Amnesty .....	26
XII. Recordkeeping.....	26
XIII. Non-Retaliation.....	26-27
Appendix A: Resource Directory .....	28-30
A. On-Campus Resources	
B. Off-Campus Resources	
C. How to Contact the Office of Title IX, ADA, and Compliance Training	
D. Frequently Asked Questions	

E. YWCA Bergen County’s healingSPACE Mobile Application

Appendix B: Consent and Incapacitation .....31

Appendix C: Restraining Orders..... 32-33

Appendix D: Risk Reduction ..... 34-35

Appendix E: Education and Prevention ..... 36-37

    A. Faculty, Staff and Student Training

    B. Being an Active Bystander

    C. Office of Violence Prevention

Appendix F: New Jersey Campus Sexual Assault Victim’s Bill of Rights ..... 38-39

Appendix G: Sexual Assault Survivor Intake Resource Form (Example) .....40

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**The federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act** (hereinafter referred to as the “Clery Act”): *Ramapo College of New Jersey is committed to helping all members of the campus community provide for their own safety and security. Information on campus security and personal safety, including alerts, crime prevention tips and crime statistics may be found at <http://www.ramapo.edu/publicsafety>*

*Questions or comments about the Sexual Misconduct Policy Governing Students may be addressed to:  
Kat McGee, Director of Title IX, ADA and Compliance Training  
E-mail: [kmcgee@ramapo.edu](mailto:kmcgee@ramapo.edu)*

*For more information about the Office of Title IX please visit: [www.ramapo.edu/titleix](http://www.ramapo.edu/titleix)*

## I. INTRODUCTION

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Ramapo College of New Jersey (“Ramapo” or “the College”) is committed to maintaining a respectful and professional academic and working environment for students, faculty, staff, and visitors. This includes having an environment free from sexual misconduct. Sexual misconduct refers to a range of prohibited offenses designated under this policy.

**The following sexual misconduct offenses are prohibited by the Sexual Misconduct Policy:**

- |                               |                             |
|-------------------------------|-----------------------------|
| <b>1. Sexual Harassment</b>   | <b>4. Stalking</b>          |
| <b>2. Sexual Assault</b>      | <b>5. Dating Violence</b>   |
| <b>3. Sexual Exploitation</b> | <b>6. Domestic Violence</b> |

**In addition, it is a prohibited offense to retaliate against anyone who files a sexual misconduct complaint or participates in a related investigation.**

The Ramapo College Sexual Misconduct Policy Governing Students (hereinafter referred to as the “Sexual Misconduct Policy”) applies to all settings and activities of the College, whether on campus property or off campus, as well as occurrences not related to activities of the College when the conduct has the propensity to create a hostile environment on campus. This Policy covers all students of the College and prohibits any student, faculty, staff, visitor or any other third party from engaging in sex-based discrimination against a student as further defined in this Policy.

So that the College may continue to foster a climate of respect and security on campus as it relates to preventing and responding to acts of sexual misconduct, this Policy has been created and serves to demonstrate the College’s commitment to:

- Disseminating clear policies and procedures for responding to sexual misconduct reported to the College;
- Engaging in investigative inquiry and resolution of reports that are prompt, fair, equitable, and independent of other investigations that may occur;
- Supporting complainants and respondents and holding persons accountable for established violations of this Policy; and
- Providing a written explanation of the rights and options available to every student that has been the victim of sexual misconduct, regardless of whether the offense occurred on or off campus.

In addition, this Policy:

1. Identifies the College’s Title IX Coordinator, Deputy Title IX Coordinators, and Title IX Investigators, and describes their roles in compliance with guidance from the United States Department of Education’s Office of Civil Rights and in compliance with the Clery Act.
2. Identifies how students can confidentially report sexual misconduct to the College and what resources are available both on and off campus to aid them, including students’ rights to notify local law enforcement and their right also to decline to notify such authorities.
3. Provides information about how reports are assessed, investigated, and resolved.
4. Provides the College with a means to take all reasonable steps to identify sexual misconduct, prevent the recurrence of such misconduct, and to correct the discriminatory effects of sexual misconduct on the complainant and others, if appropriate.

## II. NOTICE OF COORDINATION WITH NON-DISCRIMINATION POLICY & NOTICE OF NON-DISCRIMINATION

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The College recognizes that it is important to coordinate this Policy with other existing policies related to harassment and discrimination knowing that harassment related to an individual's sex, sexual orientation, gender identity or gender expression can occur in conjunction with misconduct and harassment related to a person's race, ethnicity, national origin, religion, age, pregnancy or parenting status, disability, or other protected category. Therefore, when a report is made of harassment or discrimination based on sex as well as harassment or discrimination based on some other protected category, the College will use all applicable policies respectively to address the reports and will coordinate the investigation and resolution efforts.

The College is committed to maintaining an environment free from harassment and discrimination for everyone and does not discriminate on the basis of race, sex, national origin, religion, sexual orientation, gender identity or expression, or any other protected status. Further, the College does not discriminate on the basis of sex in any educational, employment, or extracurricular activity. Sexual misconduct, as described in this Policy, is a form of sexual harassment, which is a form of discrimination and is prohibited by Title IX of the Education Amendments of 1972 (hereinafter referred to as "Title IX"). Domestic violence, dating violence and stalking also are prohibited conduct as defined by the **federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act** (hereinafter referred to as the "Clery Act"). The Clery Act was amended by the Violence Against Women Reauthorization Act of 2013 (VAWA).

*Students seeking further information regarding equal opportunity, disability, harassment, discrimination and retaliation that is **not related to sexual misconduct** should contact the Office of Affirmative Action and Workplace Compliance by calling (201) 684-7540.*

## III. TITLE IX COORDINATOR; DEPUTY TITLE IX COORDINATORS & INVESTIGATORS

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- A. The College has designated a Title IX Coordinator who is responsible for the oversight of this Policy and any procedures related to it. The Title IX Coordinator is responsible for overseeing and resolving all Title IX reports and identifying and addressing any patterns or systemic problems that arise during the review of such reports. The Coordinator's responsibilities include oversight of a prompt, fair, equitable investigation and resolution process for reports of sexual misconduct at the College. The Title IX Coordinator also evaluates trends on campus by using information reported to him or her and makes recommendations for campus wide training and education programs.

### **Title IX Coordinator:**

Kat McGee, J.D. Director of Title IX, ADA and Compliance Training  
E-mail: [kmcgee@ramapo.edu](mailto:kmcgee@ramapo.edu)  
Phone: (201) 684-7220

- B. A Deputy Title IX Coordinator (hereafter "Deputy Coordinator") will be assigned by the Title IX Coordinator for the investigation of an alleged violation of this Policy. The Deputy Coordinator will make a determination as to whether the Policy has been violated. The Deputy Coordinator will determine and issue any sanctions and permanent protective measures. (See *Investigation & Resolution Article VII, infra*). A Deputy Title IX Coordinator may also serve as a designee for the Title IX Coordinator in any case where there is a conflict of interest or where either a complainant or respondent has identified a conflict of interest in his/her case with the Title IX Coordinator. The Deputy

Coordinators are also able and will often oversee, in concert with the Title IX Coordinator, complaints arising in their respective areas of responsibility. This is determined on a case-by-case basis and the Title IX Coordinator is able to determine how best to utilize the resources at hand to resolve cases.

**Title IX Deputy Coordinators:**

- Assistant Director of Academic Affairs
- Associate Director of Human Resources
- Chief Equity and Diversity Officer/ Director of Employee Relations
- Director of Student Conduct
- Equity and Compliance Investigator

C. The Title IX Investigator(s) conducts thorough and impartial investigations into the facts of a case including the following steps:

- interviewing the complainant
- interviewing the respondent
- interviewing witnesses or others who may have relevant information
- collecting any other evidence deemed relevant to a case

The Title IX Coordinator, Deputy Title IX Coordinator, and Title IX Investigators are trained annually on issues related to sexual misconduct and instructed on how to conduct effective and impartial investigations and administer a conduct process that protects the safety of all parties and promotes accountability.

#### IV. DEFINITIONS

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**A. Definitions of Prohibited Sexual Misconduct<sup>2</sup>:**

**DATING VIOLENCE:** Threatened or actual physical or sexual violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship will be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

Dating violence includes the use or threat of physical force or restraint carried out with the intent of causing pain or injury to another within a dating relationship.

**DOMESTIC VIOLENCE:** Threatened or actual physical or sexual violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, or by a person cohabitating with (or having cohabitated with) the victim who is or has been in a social relationship of a romantic or intimate nature with the victim.<sup>3</sup>

Examples of behavior that may constitute domestic or dating violence include (but are not limited to) the following:

- Hitting, punching, pinching, slapping, or choking someone with whom the person is intimately involved.
- Violating a protective order.

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<sup>2</sup> Please note that these definitions are behavioral definitions, not legal or criminal definitions.

<sup>3</sup> Domestic violence, as defined by the Violence Against Women Reauthorization Act of 2013 (VAWA), is a type of Relationship Violence. For purposes of this Policy, Relationship Violence does not include acts that meet the definition of domestic violence under New Jersey laws that are based solely on cohabitation (e.g. roommates).

- Touching an intimate partner sexually without the person’s consent.

**RETALIATION:** Reprisal, interference, restraint, penalty, discrimination, intimidation, threats, harassment or any other adverse action taken against a person who reports sexual misconduct, is a Complainant in an investigation, serves as a witness, or is a third party involved in the investigation of such a report. Retaliation may occur in response to engaging in permitted conduct or for refusing to engage in prohibited conduct. *For more information please see Non-Retaliation Article XIII, infra.*

**SEXUAL ASSAULT:** An offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. (Sexual assault includes Rape, Fondling, Incest and Statutory Rape.) Since the College administrative process is not a criminal process, the terms that are used to describe rape, fondling, incest and statutory rape are non-criminal terms as stated and described below:

- **Non-Consensual Sexual Contact (or attempts to commit)** defined as any intentional sexual touching with any object(s) or body part that is without consent and/or by force. Sexual contact is defined as kissing or touching others intimate parts. Intimate parts may include, but are not limited to, a person’s groin, buttocks, mouth or breasts.
- **Non-Consensual Sexual Intercourse (or attempts to commit)** defined as penetration, no matter how slight, of a person’s vagina, anus or mouth with any object(s) or sex organ that is without consent and/or by force.

Examples of behavior that would constitute sexual assault may include the following:

- Engaging in sexual activity with an unconscious or semi-conscious person;
- Engaging in sexual activity with someone who is asleep or passed out;
- Engaging in sexual activity with someone who has said “no”;
- Engaging in sexual activity with someone who is not reciprocating by body movement;
- Engaging in sexual activity with someone who is vomiting, unable to stand or undress without assistance, or has to be carried to bed;
- Engaging in sexual activity with someone who is under the statutory age of consent (statutory rape) or related by degrees within sexual contact would be illegal (incest);
- Allowing another person to engage in sexual activity with your partner without his or her consent;
- Requiring any person to perform any sexual activity as a condition of acceptance into a fraternity, sorority, athletic, or any other organization affiliated with the College;
- Telling someone you will “out” them if they don’t engage in sexual activity (e.g., threatening to disclose the person’s sexual orientation without their consent);
- Telling someone you will fail them or give them a grade different from what they deserve if they don’t agree to engage in sexual activity; or
- Facilitating or assisting in a sexual assault including purchasing or providing alcohol or drugs to further a sexual assault.

**SEXUAL EXPLOITATION:** Occurs when a person takes sexual advantage (or attempts to take sexual advantage) of another without that individual’s consent for the initiator’s own advantage or benefit or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.

Examples of behavior that would constitute sexual exploitation include the following:

- Photographing or videotaping another in a state of undress without consent;
- Prostituting another;
- Allowing a third party to watch consensual sexual contact without the permission of both parties involved in the sex act or showing voluntarily recorded sexual activity to others without permission;

- Knowingly giving another a sexually transmitted infection (STI) or HIV; or
- Allowing others to have sex with an incapacitated person.
- Exposing one's genitals in non-consensual circumstances.

**SEXUAL HARASSMENT:** Unwelcome conduct of a sexual nature including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment also may include inappropriate touching, suggestive comments, and public display of pornographic or suggestive calendars, posters, or signs where such images are not connected to any legitimate academic or workplace purpose.

Sexual Harassment also exists when: (1) submission to conduct is made as express or implicit term or condition of an individual's employment, performance, appraisal, or evaluation of academic performance; or (2) unlawful conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, humiliating, or offensive working or learning environment.

Examples of behavior that could constitute sexual harassment may include the following:

- Calling someone by a sexually-oriented or demeaning name;
- Giving someone unwanted gifts of a sexual nature;
- Displaying sexually suggestive materials or sending notes, email, or jokes to a person that are sexually explicit;
- Touching someone sexually without their consent;
- Massaging someone without permission;
- Brushing up against someone repeatedly;
- Continuing to ask out a person who already has said he or she is not interested; or
- Exposing your private parts to another person without his or her consent.

**STALKING:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional distress.

Examples of behavior that would constitute stalking may include the following:

- Spreading lies about a person;
- Repeatedly communicating with a person who doesn't wish to be communicated with;
- Follow a person or lying in wait for another; or
- Sending unwanted gifts to another.

## **B. Definition of Affirmative Consent:**

**AFFIRMATIVE CONSENT:** Affirmative consent (hereafter "consent") is the voluntary, unambiguous, clear agreement in an act and understood by each party. It is the responsibility of each person involved in the sexual activity to ensure that the person has the consent of the other or others to engage in the sexual activity. Consent must be ongoing throughout a sexual activity and may be withdrawn at any time before the completion of an act. A person may be incapable of consent due to physical or mental incapacitation, physical or mental disability, threat, coercion, the influence of alcohol or drugs, being asleep, or under the legal age of consent.<sup>4</sup>

- Consent to one act does not infer or imply that a person is consenting to another act;
- Consent to an act on a prior occasion does not infer or imply consent to a current act;

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<sup>4</sup> New Jersey Coalition Against Sexual Assault (2014)

- The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.
- An individual's silence or lack of protest does not infer or imply that they are consenting to an act,
- Consent must be clear and obvious by all partners, who have willingly and affirmatively chosen to participate without force, threat, or coercion, throughout the act;
- Incapacitated individuals, (physically, mentally, and/or due to alcohol or other drugs) are unable to consent. **For purposes of this Policy, the standard that shall be applied is whether or not a reasonable person would have known, based on the facts and circumstances presented, that the other person was incapacitated and therefore, not capable of giving consent.** A reasonable person is assumed to be sober and using good judgment. A respondent cannot claim that being under the influence of alcohol or drugs is a defense or excuse for engaging in sexual misconduct. *For more information regarding incapacitation please see Appendix B.*

If at any time consent is uncertain, the initiating party should stop and obtain verbal consent. The use of any force, coercion, threat, or intimidation negates consent.

It is important to note that in the evaluation of a complaint in a disciplinary process, it shall not be a valid excuse that the accused believed that the complainant consented to the sexual activity under either of the following circumstances:

- (1) the accused's belief in consent arose from the intoxication or recklessness of the accused; or
- (2) the accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant consented.

Additionally, it shall not be a valid excuse that the accused believed that the complainant consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:

- (1) the complainant was asleep or unconscious;
- (2) the complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity; or
- (3) the complainant was unable to communicate due to a mental or physical condition.

The College will use the reasonable person standard in determining whether or not the respondent knew or should have known given all facts and circumstances present at the time if any of the above conditions were met.

### **C. Other Definitions:**

**COERCION:** An expression through words or acts of threats, intimidation, or undue or unreasonable pressure.

**COMPLAINANT:** The person reporting sexual misconduct. The Complainant can be either the victim or a third party.

**CONSENSUAL RELATIONSHIPS:** Consensual relationships are romantic and/or sexual relationships between two or more individuals entered into with the consent of both parties. Consensual relationships between College employees and students, even with students who are not subject to direct supervision or evaluation by the faculty or staff member, should be avoided because they may negatively impact the learning environment.

Moreover, the College prohibits all employees from having romantic, sexual, or other close personal relationships with students over whom they have educational evaluation, advisory or supervisory responsibility, regardless of whether the relationship was entered into with the consent of both parties. Such relationships are inconsistent with the proper role of the instructor, administrator or manager in the College's educational mission, and are susceptible to perceptions of favoritism, unprofessional behavior, and conflicts of interest. In the event that a faculty member or other employee is placed in a position that would require him or her to assume educational instruction, evaluation or supervisory authority over a student with whom he or she has, or has had, a romantic or sexual relationship, he or she shall immediately disclose the identity of the student to the unit head and shall refrain from exercising such authority over the student. The unit head shall notify the Office of Human Resources, and shall immediately arrange for another employee to instruct, evaluate or supervise the student. Any employee or student who obtains knowledge of such a romantic or sexual relationship between an employee and a student is required to disclose it to the Director of Affirmative Action and Workplace Compliance for confidential investigation. The Affirmative Action and Workplace Compliance Office may notify the Office of Employee Relations and/or the Office of Human Resources for appropriate handling.<sup>5</sup>

**EMPLOYEE:** For purposes of this Policy, a College employee shall include all hourly, part-time and full-time faculty, adjunct faculty, and staff members.

**FORCE:** Includes physical acts, coercion, threats, and intimidation.

**GENDER:** Gender refers to the spectrum between maleness and masculinity, and femaleness and femininity, as defined by self and society. It is a part of the constellation of physical, biological, behavioral, social and psychological traits that create legal "sex."

**GENDER BIAS:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., male or female.

**GENDER IDENTITY:** Gender identity refers to every person's basic sense of gender, and is a deeply felt, core component of a person's identity. It has a strong biological and genetic component, and is the most important determinant of a person's sex.<sup>6</sup>

**GENDER IDENTITY BIAS:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals.

**GENDER NON-CONFORMING:** Refers to people who do not follow other people's ideas or stereotypes about how they should look or act based on the female or male sex they were assigned at birth.<sup>7</sup>

**IMPAIRMENT:** The state of being diminished or weakened due to the consumption of alcohol or other drugs. Impairment begins as soon as alcohol or drugs enter the bloodstream of the user, and increases with consumption.

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<sup>5</sup> See Ramapo College Administrative Policy Number 633, Preserving Professional Relationships: [www.ramapo.edu/board/policies](http://www.ramapo.edu/board/policies)

<sup>6</sup> American Academy of Pediatrics, cited in M. Dru Levasseur, GENDER IDENTITY DEFINES SEX: UPDATING THE LAW TO REFLECT MODERN MEDICAL SCIENCE IS KEY TO TRANSGENDER RIGHTS, Vermont Law Review 39, no. 4: 943, 951 & nn. 34-36 (2015)

<sup>7</sup> Sylvia Rivera Law Project, <http://srlp.org/resources/fact-sheet-transgender-gender-nonconforming-youth-school/>

**INCAPACITATION:** Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing and informed consent. Individuals who are incapacitated cannot consent to sexual activity. Incapacitation renders an individual unable to understand the fact, nature, or extent of the sexual activity. *For more information regarding incapacitation please see Appendix B.*

**INTIMIDATION:** An expression through words or acts that imply a threat.

**PHYSICAL FORCE:** Actions which may include but not be limited to hitting, pushing, holding, pinching, leaning on, obstructing an entrance or exit, or carrying away. Physical force may include the use or display of any weapon.

**PREPONDERANCE OF THE EVIDENCE:** A standard of proof in which the totality of the evidence demonstrates that an individual's version of events more likely than not occurred. Preponderance of the evidence is understood to require more than 50 percent certainty to determine responsibility (51% or greater).

**RESPONDENT/ACCUSED:** The person reported to have engaged in sexual misconduct is the "Respondent" or the "Accused" and those terms may be used interchangeably.

**SEXUAL MISCONDUCT:** A broad term that identifies forms of discrimination and harassment based on sex including, sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence, and stalking. Sexual misconduct includes other acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

**STUDENT:** The College recognizes as a student any individual who has completed the following:

- paid a tuition deposit indicating "intent to enroll";
- registered for credit bearing courses; and
- arrived on campus to begin the semester/term.

This definition includes individuals who arrive to campus prior to the start of the semester/term for recognized College functions including, but not limited to student employment; trainings; athletics; and participation in the Summer EOF program.

**THREAT:** An expression through words or acts of intent to inflict harm or other negative consequences.

## V. CONFIDENTIALITY

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**Confidential Resources** are individuals who are not obligated to report information that is given to them. This allows a student to explore his or her options in order to make informed decisions. The only exceptions to this rule are in cases that involve imminent risk of serious harm, child abuse, emergent hospitalization, or a court order. While specific information may be kept confidential, these incidents may be counted for statistical purposes, as per the Clery Act.

**Non-Confidential Resources** are professionals who are required by law to report incidents of alleged sexual misconduct to the Title IX Coordinator. When possible, the Title IX Coordinator will keep the identity of an unwilling victim or witness confidential. However, confidentiality cannot be guaranteed as the Title IX Coordinator must balance requests for confidentiality against the safety of other members of the College community. If the Title IX Coordinator determines that there is a threat of imminent or ongoing harm to an

individual or to the community, such information may need to be shared and then only with appropriate individuals.

If the Complainant reports an incident of sexual misconduct to a College official or the Title IX Coordinator and requests confidentiality or asks that the report not be pursued, the College will take all reasonable steps to investigate and respond to the report consistent with the request for confidentiality or request not to pursue an investigation. However, if a Complainant insists that his/her name or other identifiable information not be disclosed to the Respondent, the College's ability to respond may be limited. If the Complainant continues to ask that his or her name not be revealed, the College will take all reasonable steps to investigate and respond to the report consistent with the respondent's request as long as doing so does not prevent the College from responding effectively to the harassment and prevent the harassment of other members of the College community. The Title IX Coordinator will evaluate the confidentiality request in the context of his/her responsibility to provide a safe and nondiscriminatory environment for all persons. If the Title IX Coordinator determines that circumstances do not allow a request for confidentiality to be granted the College will take action as appropriate. It is a violation of College policy to retaliate against an individual who reports sexual misconduct, is a Complainant in an investigation, serves as a witness, or is a third party involved in the investigation of such a report.

Additionally, personal identifiable information will be treated as confidential and only shared with persons who have a specific need to know and who are investigating/adjudicating the report or delivering resources or support services. Further, the College will maintain as confidential, any accommodations or protective measures provided to the Complainant to the extent that maintaining such confidentiality would not impair the College's ability to provide such accommodations or protective measures.

#### **A. Confidential Health, Counseling, Athletic Training, and Pastoral Services**

The College provides confidential health, counseling, athletic training, and pastoral services on campus. The healthcare professionals, counselors, athletic trainers, and clergy providing these services can be of assistance to students in ordinary or emergent circumstances. Conversations with these individuals are confidential:

1. Healthcare professionals – Health Services provides emergency contraception, testing for Sexually Transmitted Infections (STI's), pregnancy testing, and more. These services are provided free of charge for survivors of sexual assault.
2. Licensed Professional Counselors in the Counseling Services: when contacting Counseling Services please request a **confidential** counselor. Licensed Professional Counselors in the State of New Jersey whose official College responsibilities include providing mental health counseling to members of the campus community are not required by Title IX or the Clery Act to report any information regarding an incident of sexual violence to the Title IX Coordinator or other College official. Information received by Licensed Professional Counselors regarding suspected abuse of children will be reported, as required by applicable law.
3. Athletic Trainers with certification and who are licensed by the State of New Jersey and whose official College responsibilities include the evaluation and treatment of student athletes; determining the appropriate application of emergency procedures; and providing first aid as needed are not required by Title IX to report any information regarding an incident of sexual violence to the Title IX Coordinator or other College official nor are they required to report any statistical information to the College's Public Safety Department under the Clery Act.
4. Pastoral Counselors – A pastoral counselor is someone who is associated with a religious order or denomination, recognized by that religious order or denomination as someone who provides confidential

counseling and who is functioning within the scope of that recognition as a pastoral counselor at the College. At Ramapo, there are clergy and others appropriately recognized as fitting that definition who are associated with the Council for Faith and Spirituality. For more information about available clergy please visit [www.ramapo.edu/ministries/](http://www.ramapo.edu/ministries/).

## **B. Prevention Education Coordinator**

The Prevention Education Coordinator oversees the Office of Violence Prevention and focuses on strategic planning for an ongoing, comprehensive, systemic approach to violence prevention through programing and educational campaigns. If an incident of sexual misconduct is reported to the Prevention Education Coordinator and the incident is a crime on campus or within the geographic areas designated by the Clery Act, the Prevention Education Coordinator is required to report the incident without any identifying information to the Public Safety Department for inclusion in the daily crime log and annual statistical report and for issuance of any required timely warning (Clery Act). A timely warning will not identify the victim, but may include information such as the location of the incident, a succinct description of the incident, and prevention and reporting strategies. The Prevention Education Coordinator may report incidents without any identifying information to the Title IX Coordinator to enable the College to understand the existence and extent of the problem (Title IX).

## **C. Confidentiality of Records**

Education records are maintained in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g; 34 C.F.R. Part 99 (“FERPA”). All documentation related to a student’s report, investigation, and resolution made under this Policy is protected by FERPA and will not be released, except as required by law<sup>8</sup>. In the event that any such report involves treatment records, those records will remain confidential subject to any applicable state/federal law and/or regulation. Non-identifying information about a report may be shared with the College’s Public Safety Department to comply with the Clery Act. A complainant’s name will never be published in connection with the College’s obligations under the Clery Act. In addition, the College does not publish identifiable information regarding victims in the College’s Daily Crime Log or online. In addition, any person including a victim of sexual misconduct may request that her or his directory information on file be removed from public sources. To request removal of directory information, students should contact the Registrar’s Office.

## **VI. REPORTING**

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If any student has been the victim of sexual misconduct she/he should report the incident promptly to the Title IX Coordinator or the Department of Public Safety. The College will provide resources to any person who has been a victim of sexual misconduct and will apply appropriate disciplinary procedures to those who violate this Policy. The procedures set forth below afford a prompt response to reports of sexual misconduct, maintain confidentiality and fairness consistent with applicable legal requirements, and impose appropriate sanctions on violators of this Policy.

### **A. Contact Information for Reporting**

Any person who believes she/he has been the subject of sexual misconduct or who is aware of a student or employee of the College who has been subject to sexual misconduct is strongly encouraged to contact:

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<sup>8</sup> Information gathered in the course of an investigation under this policy may be subpoenaed by law enforcement authorities as part of a parallel investigation into the same conduct, or required to be produced through other compulsory legal process.

**1. Title IX Coordinator:** *(available during regular business hours)*

Kat McGee, Director of Title IX, ADA and Compliance Training

E-mail: [kmcgee@ramapo.edu](mailto:kmcgee@ramapo.edu)

Phone: (201) 684-7220

**2. The Public Safety Department:** *(available 24 hours a day, 7 days a week)*

(201) 684-6666

Office Location: C-102

If applicable, the Title IX Coordinator or the Public Safety Department will provide a copy of the Sexual Assault Survivor Intake Resource Form (See Appendix G, *infra* for an example Sexual Assault Survivor Intake Resource Form) and/or the Sexual Violence Resource Packet.

**B. Responsibility of College Employees to Report**

Every College employee (including faculty, student and professional staff, and administrators) who learns of an incident of sexual misconduct **MUST** report it to the Title IX Coordinator within 24 hours (unless the employee is a designated confidential resource previously identified in the “Confidentiality” section of this Policy). The report must include the name of the Complainant and Respondent, if known.<sup>9</sup>

In addition, the College requires everyone in the campus community to report the suspected abuse of minors (children under the age of 18) to the Title IX Coordinator.

**C. Essentials of a Report**

1. A “report” is made when the College knows or reasonably should know based on the statements of a complainant or a third party that sexual misconduct has occurred.
2. A complainant need not supply a written statement, although it is preferable.
3. Actual notice, which consists of direct statements from a complainant of sexual misconduct, is desirable, although the College accepts verbal or written statements from any party who has knowledge of an incident occurring either on or off campus that has the potential to interfere with the educational mission or associated activities of the College.
4. The College reserves the right to bring reports forward against a student and to act as the Complainant for purposes of this Policy. In addition, an individual does not have to be a member of the College to file a report under this Policy.

**D. Medical Attention**

After an incident of sexual assault, or any other incident of sexual misconduct resulting in injury, the victim should consider seeking medical attention as soon as possible at the closest emergency room. When a report of sexual assault is provided to the Title IX Coordinator, he or she will

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<sup>9</sup> Unless directed otherwise by the Title IX Coordinator or designee. Designated Campus Security Authorities who are not Responsible Employees must report statistical information so the College may comply with the Clery Act, but are not required to report identifying information.

provide the victim with options to seek prompt medical attention. (*See Appendix A, infra for medical treatment options*).

#### **E. Resources**

Upon receipt of a report, the College will inform the complainant of the availability of medical, counseling and support services, and additional interim measures to prevent contact between a complainant and a respondent, such as housing, academic, transportation and working accommodations, if reasonably available.

#### **F. Right to Pursue Criminal Charges**

1. After receiving a report, the Title IX Coordinator will inform individuals of their right to file an incident report with law enforcement.
2. Although the College strongly encourages all members of its community to report violations of this Policy to law enforcement, it is the victim's choice whether to make such a report and victims have the right to decline involvement with the police. The College's Title IX Coordinator or Director of Public Safety (or their designees) will assist any victim with notifying local police if he/she so desires. The Mahwah Police Department also may be reached directly by calling (201) 529-1000.
3. A complainant may choose NOT to have law enforcement contacted and no report filed BUT still may have forensic evidence collected. (Note: The Complainant later may choose to file a police report and cooperate with a criminal investigation.) Victims of sexual assault are encouraged to request and cooperate fully with an investigation so the possibility of filing criminal charges remains an option, if they later chose to do so.
4. There is no statute of limitations on reporting a sexual assault to the police department. A survivor can make a report at any time. The Mahwah Police Department may be contacted for additional information concerning sexual assault reports.
5. If a survivor does not want to make a report to police, his/her may seek civil remedies, including the filing of an application for a restraining order. For additional information about civil remedies, the survivor should contact his/her own legal counsel.
6. A complainant may file a police incident report and ask that the investigation and charges be pursued immediately. While the prosecuting attorney is still the decision-maker in whether the perpetrator is charged criminally, the complainant can cooperate and provide as much timely information as may be possible.

#### **G. Timing of Reporting**

While the College does not limit the time in which a report can be made, as time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, or obtaining protection from protective orders related to the incident more difficult. If a victim chooses not to make a report regarding an incident, he or she nevertheless should consider speaking with the Title IX Coordinator or the Director of Public Safety or local law enforcement to preserve evidence in the event that she or he changes her/his mind at a later time.

## **H. Anonymous Online Reporting**

A reporting form is available at [ramapo.edu/publicsafety/sexual-assault](http://ramapo.edu/publicsafety/sexual-assault) (See “*Report an Incident Now*”). The form may be filled out anonymously, or the survivor may choose to include identifying information.

The supplier of an anonymous report should be mindful that failure to disclose identifying information about the respondent, the victim of the misconduct, or the facts and circumstances regarding the misconduct severely limits the College’s ability to respond to, address, and remedy the effects of sexual misconduct. Anonymous reports that provide enough information to constitute a criminal offense will be reported to the Public Safety Department without identifying information regarding the complainant for purposes of inclusion in the College’s Annual Security Report and to determine whether the College should send a Timely Warning Notice (TWN.)

## **VII. INVESTIGATION & RESOLUTION**

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In proceedings under this Policy, the standard of proof used to determine whether or not a violation of this Policy has occurred is a preponderance of evidence, which means it is more likely than not the misconduct occurred.

The College reserves the right to bring reports forward against a student or employee and to act as the Complainant for purposes of this Policy. In addition, an individual does not have to be a member of the College to file a report under this Policy.

### **A. Process**

1. Upon receiving a report (either verbally or in writing), the Title IX Coordinator will assess the report. The initial assessment will determine whether the alleged conduct would present a potential violation of the Policy and whether further action is warranted based on the alleged conduct.

A. The first step of the initial assessment will usually be a preliminary meeting between the Complainant and Title IX Coordinator or designee to gather facts that will enable the Title IX Coordinator to assess the nature and circumstances of the allegation and institute appropriate interim protective measures.

B. Where a Complainant requests that their name or other identifiable information not be shared with the Respondent or that no formal action be taken, the Title IX Coordinator will balance this request against the following factors in reaching a determination whether the request can be honored:

- the nature and scope of the alleged conduct, including whether the reported misconduct involves the use of a weapon;
- the respective ages and roles of the parties;
- the risk posed to other individuals or to the campus community by not proceeding, including the risk of additional violence;
- whether there have been other reports of misconduct by the Respondent;
- whether the report reveals a pattern of misconduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group
- the presence of multiple perpetrators

- threats of further violence or misconduct
- the Complainant’s wish to pursue formal action;
- whether the College possesses other means to obtain relevant evidence;
- considerations of fundamental fairness and due process with respect to the Respondent should the course of action include disciplinary action against the Respondent; and
- the obligation to provide a safe and non-discriminatory campus environment.

C. Where possible based on the facts and circumstances, the Title IX Coordinator will seek action consistent with the Complainant’s expressed preference for manner of resolution, recognizing that the College must move forward with cases in which there appears to be a threat to any individual or the College as a whole. The College’s ability to fully investigate and respond to a report may be limited if the Complainant requests that their name not be disclosed to the Respondent or declines to participate in an investigation.

D. At the conclusion of the initial assessment, the Title IX Coordinator will determine the appropriate resolution route, which may include: 1) no further action, 2) informal resolution (See *Informal Resolution, Section E, infra*), or 3) the initiation of an investigation.

2. If the report and/or intake appear, upon initial assessment, to be a possible violation of this Policy requiring investigation:

A. The Title IX Coordinator will send the parties a written Notice of Investigation which will contain a summary of the allegation(s) under the Policy. Once the Notice of Investigation has been delivered to the parties, the investigation phase begins. Upon receipt of the Notice of Investigation, or at any stage in the process, the Respondent may choose to accept responsibility for all or part of the alleged the Policy violation(s). If the Respondent accepts responsibility for misconduct, the Title IX Coordinator will facilitate the resolution and give final sanction(s) as deemed suitable.

B. The Title IX Coordinator shall assign the case to an Investigator(s) and a Deputy Title IX Coordinator. If an employee is the Respondent, this Policy would not apply and the case would be referred to the Office of Affirmative Action and Workplace Compliance for investigation under the New Jersey State Policy Prohibiting Discrimination in the Workplace.

3. The Investigator(s) will conduct a thorough and impartial investigation into the facts of the case and will interview the Complainant, Respondent, witnesses or other individuals who may have relevant information<sup>10</sup>, and collect any other evidence deemed relevant to the case. Preliminary and follow-up interviews will be conducted as appropriate.

A. Critical Witnesses: The Title IX Coordinator may identify a student as a Critical Witness if he or she may have information critical to the outcome of an investigation. A Critical Witnesses may be required by the Title IX Coordinator to meet with a Title IX Investigator. A Critical Witness who refuses to do so may be charged with “failure to comply with the directions of College officials, including campus Public Safety officers, or officers of the law, acting in performance of their duties (Ramapo College Code of Conduct, H.17).”

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<sup>10</sup> If the Complainant or Respondent does not respond to the Investigator within 10 business days of the Investigator’s initial outreach the investigation will nonetheless proceed in his or her absence.

B. Unavailable Witnesses: Under rare circumstances, a signed, dated, and notarized statement of a witness who is unable to appear or who has been excused may be submitted to the Investigator. The decision as to whether such a document or any other alternative means of providing evidence may be considered lies solely with the Title IX Coordinator.

4. At the conclusion of the investigation the Investigator will deliver a preliminary report to the Title IX Coordinator and Deputy Coordinator. Either the Title IX Coordinator or the Deputy Coordinator will meet with the Complainant and Respondent separately to discuss the evidence that will be used to reach an outcome and to allow the parties the opportunity to present any information, evidence or witnesses that were not included but hold relevant information.

5. The parties will have five (5) business days from the date of this meeting to provide a written response to the Deputy Coordinator citing any further information, evidence or witnesses that they would like considered.

A. If one or both of the parties provides a written response the Deputy Coordinator will determine if there is a need for further investigation, and if so, will inform the Title IX Coordinator. The Title IX Coordinator will direct the Investigator to conduct further investigation until the Investigator determines the fact-finding is complete. Any new information that is relevant to the investigation will be revealed to the Complainant and the Respondent.

B. If neither party provides a written response fact finding is determined to be complete.

6. Once fact finding has been completed the Investigator will provide a final report to the Title IX Coordinator and Deputy Coordinator including a recommendation as to whether or not, using the preponderance of the evidence standard, misconduct (as defined in this Policy) occurred. The Deputy Coordinator will review the findings and make a determination as to whether the Policy has been violated. The Deputy Coordinator will determine and issue any sanctions and permanent protective measures for students. (See *Sanctions Article IX, infra*).

7. The Deputy Coordinator will communicate decisions regarding the finding, the reason for the determination of the finding, permanent protective measures (if any) and any sanction(s) (if any) to the Complainant and Respondent simultaneously and in writing by College email as well as by U.S. Mail.<sup>11</sup> The Title IX Coordinator and the Vice President of Enrollment Management and Student Affairs shall be copied on all outcome notices.

## **B. Appeals**

All determinations, including not responsible findings, may be appealed to the Vice President of Enrollment Management and Student Affairs (or designee) by the Complainant and/or the Respondent. Appeals are not heard in person; instead all requests for appeal must be submitted in writing to the Vice President of Enrollment Management and Student Affairs (or designee such as a Deputy Coordinator not previously assigned to the investigation) within five (5) business days from the date on the letter notifying the Respondent or the Complainant of the original finding. Failure to appeal within the allotted time will render the original finding final. Appeals shall be decided upon the record of the original report and upon the written appeal letter.

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<sup>11</sup> Requests for email-only notification may be made by the Complainant or Respondent to the Title IX Coordinator.

Appeals shall be granted only on one or more of the following grounds:

1. If the sanctions are found to be significantly disproportionate to the offense;
2. If the specified procedural error or errors in the interpretation of the College regulations were so substantial as to effectively deny the party(ies) a fair investigation;
3. If new and significant evidence becomes available which could not have been discovered by a properly diligent person during the original investigation.

The fact that one of the parties disagrees with the finding or sanction does not constitute grounds for appeal.

If the Vice President of Enrollment Management and Student Affairs (or designee) finds no grounds for an appeal, then the decision will become final. There is no further appeal within the College.

If the Vice President of Enrollment Management and Student Affairs (or designee) finds grounds for appeal, then s/he may dismiss the case, change the sanction, modify the finding, or uphold the finding based on the grounds identified. The decision of the Vice President of Enrollment Management and Student Affairs (or designee) is final. There is no further appeal within the College.

The Vice President of Enrollment Management and Student Affairs (or designee) will communicate decisions regarding the appeal to the Complainant and Respondent simultaneously and in writing via the College email system and U.S. Mail.<sup>12</sup> The Title IX Coordinator and the Deputy Coordinator shall be copied on all outcome notices.

The imposition of sanctions is normally deferred during the appeal process although sanctions may go into effect immediately if the Title IX Coordinator and/or Deputy Coordinator deems it necessary. Interim measures will remain in place during the appeal process.

### **C. Personal Advisors**

The Complainant and the Respondent each have the opportunity to be advised by a personal advisor of his or her choice (to include permitting an attorney to be an advisor), at his/her expense, at any stage of the process and to be accompanied by that advisor at any meeting or hearing in which the Complainant or the Respondent is required to attend. A sexual assault survivor may select a Confidential Rape Crisis Advocate from healingSPACE (Sexual Violence Resource Center) to be his or her personal advisor. An advisor may only consult and advise his or her advisee, but not speak for the advisee at any meeting. In addition, an advisor may not direct questions to any College administrator, party, or witness in the process. A personal advisor may not participate in any other capacity in reference to the same incident, including, but not limited to, serving as a Witness, Co-Complainant, or Co-Respondent. Meetings and interviews will not be substantially delayed due to an advisor's availability.<sup>13</sup> The College will communicate at all times directly with the parties. It is the responsibility of the parties to forward any communication to their advisor.

### **D. Time Frames**

The College will endeavor to conduct and complete an investigation and/or other appropriate resolution of a report of sexual misconduct in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. In the event the investigation is anticipated to exceed one

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<sup>12</sup> Requests for email-only notification may be made by the complainant or respondent to the Title IX Coordinator.

<sup>13</sup> For example, if an attorney is not available to attend a meeting or interview for several weeks this may cause a substantial delay in the investigation, and thus the meeting or interview may proceed regardless of the availability of the desired advisor. The Complainant or Respondent may choose to bring another available advisor in place of the unavailable advisor.

hundred and twenty (120) days, the Title IX Coordinator or his/her designee will notify the Complainant and Respondent in writing at least one (1) week prior to the end of the one hundred and twenty (120) days. In this event, the Title IX Coordinator will advise the parties of the anticipated timeframe for the completion of the investigation. The College also reserves the right to retain external investigators as it sees fit based on the complexity and scope of the complaint.

#### **E. Informal Resolution**

Informal resolution is a procedure designed to eliminate the conduct at issue, prevent its recurrence, and remedy its effects in a manner that meets the expressed preference of the Complainant and the safety and welfare of the campus community. When appropriate, certain student-on-student complaints may be resolved by the Title IX Coordinator or Deputy Coordinator without a full investigation. (For example, a Complainant and Respondent may agree with the Title IX Coordinator that education and training for the Respondent are an appropriate and sufficient response in a particular case, or that a No Contact Order between the parties provides remediation for the Complainant).

If a Complainant requests informal resolution, and the Title IX Coordinator concludes that informal resolution is appropriate, the Title IX Coordinator will take appropriate action by imposing individual and/or community remedies designed to maximize the Complainant's access to all educational and extracurricular opportunities and benefits at the College and to eliminate a potential hostile environment.

Informal resolution may include: establishing interim protective measures; conducting targeted or broad-based educational programming or training for relevant individuals or groups (i.e., sexual harassment training); a verbal or written apology; providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; facilitating a meeting with the Respondent with the Complainant present (in cases that do not involve Sexual Assault: Non-Consensual Sexual Intercourse); a letter of warning to the Respondent, and any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy. In some forms of informal resolution, the remedies imposed will focus on supporting the Complainant with no participation or involvement by the Respondent. Depending on the type of remedy used, it may be possible for a Complainant to maintain anonymity.

The informal resolution process does not conclude with a finding; the Respondent is not charged with a policy violation and is not found to be "responsible" or "not responsible" of a policy violation. If the parties agree to an informal resolution process sanctions will not be imposed on either party, however, the parties may agree to appropriate remedies.

In cases in which the informal resolution involves either the notification to or participation by the Respondent, it is the Respondent's decision whether to accept informal resolution. The Respondent has fourteen (14) days from receiving an invitation to participate in informal resolution to reply. The Title IX Coordinator may, in their discretion, and where circumstances warrant, extend this time line. If a Respondent does not reply or refuses to participate in informal resolution, the Title IX Coordinator will notify the Complainant of same and discuss other procedural options of resolution. Either party can request to end informal resolution and request to have a formal investigation of the complaint at any period prior to the resolution. Similarly, a Complainant can request to end an investigation and pursue informal resolution at any time prior to the issuance of investigation outcome letters to the parties. If both Complainant and Respondent are satisfied with the proposed resolution and the Title IX Coordinator believes the resolution satisfies the College's obligation to provide a safe and non-discriminatory environment for all students, the resolution will be implemented, the investigation process will be concluded, the matter will be closed and both parties will be provided with written notice of the resolution. Failure to comply with the resolution may be considered a violation of "failure to

comply with the directions of College officials, including campus Public Safety Officers, or Officers of the law, acting in performance of their duties.” (Ramapo College Code of Conduct H.17)

To assess pattern or systemic behavior fairly, the Title IX Coordinator will maintain records of all reports and conduct referred for informal resolution. The time frame for completion of informal resolution may vary, but the College will seek to complete the process within sixty (60) days of the Complainant’s request.

Informal resolutions are only possible when the violations do not involve Sexual Assault: Non-Consensual Sexual Intercourse or Domestic/Dating Violence and/or may not meet the criteria for classification as a crime. Mediation will never be used in the resolution of complaints of Sexual Assault or Domestic/Dating violence.

**F. Withdrawal Prior to the Conclusion of an Investigation**

The protocol established by this Policy will not be deferred due to the withdrawal from enrollment at the College of a Complainant or Respondent. Should either party decide to withdraw and/or not participate in the investigation, the process will nonetheless proceed in his or her absence. The Title IX Coordinator will communicate the outcome, permanent protective measures (if any) and any sanction(s) (if any) to the withdrawn party using his or her last known e-mail and home address.

**VIII. INTERIM AND/OR PROTECTIVE MEASURES**

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The College may take interim and/ or protective measures at any point during an investigation. These actions are designed to eliminate the harassment/sexual misconduct and prevent its recurrence. These measures may include, but are not limited to, no contact orders, changes in housing assignment for the Respondent and/or Complainant, removal from campus housing or grounds, academic accommodations, changes in supervisor or work location, social restrictions, changes in parking locations, increased security, and/or emotional and other support. An accused student may be issued an Interim Suspension (i.e. suspension from classes, work and other privileges or activities, or from the College) until resolution of a case. If an accused student takes part in Interim Suspension Hearing, notes taken by College officials during the Interim Suspension Hearing may become a part of the investigation record.

If the Respondent is a member of the College, a No Contact Order may be issued to all parties involved by the College. This will prohibit communication between the parties, including contact verbally, in writing, through technology, or by third parties. If a student has been the victim of domestic or dating violence, stalking or sexual abuse, she/he also should consider obtaining a restraining order from the State of New Jersey (see *Appendix C, infra*).

**IX. SANCTIONS**

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Any of the following sanction(s), or combinations of sanction(s), may be imposed for any violation under this Policy. Failure to abide by the imposed sanction(s) will result in additional sanctions. This includes failure to comply with the reasonable directions of a College official, including, but not limited to, the Title IX Coordinator, Public Safety Officers, and/or other College employees acting in performance of their duties. Sanctions other than those outlined in this Policy may be taken if the situation warrants.

All findings of responsibility will result in written notification being placed in the Respondent’s disciplinary file in the Office of Student Conduct.

All conditions of disciplinary sanctions must be fulfilled by the given deadlines. Failure to comply with sanctions will result in a registration hold for a subsequent semester and additional non-compliance charges.

A student with incomplete disciplinary sanction(s) that is no longer enrolled at the College will have a registration hold placed on his/her account and sanctions placed in hiatus. Should a student re-enroll at the College, the sanctions must be completed. Monetary fines are the exception to this rule, as they are immediately posted on bills from the Office of Student Accounts.

Recommended Sanction(s) for Domestic Violence, Dating Violence, Stalking, and other Sexual Misconduct (excluding Sexual Assault or Sexual Intercourse without consent) may include:

1. **Official Warning:** A written statement indicating a violation of the Policy has occurred and warning that a subsequent violation will likely be treated more severely.
2. **Restitution Requirement:** The student may be required to provide the College with financial restitution for the restoration or replacement of property that was damaged, defaced, lost, or stolen. Students seeking a financial award from other students for damages or compensation for stolen/damaged items should seek further assistance from the Mahwah Municipal Court. The College's student conduct process does not have jurisdiction in this area.
3. **Residence Probation:** A defined period of time whereby a student living in College residence facilities is given an opportunity to modify his/her behavior or risk losing the privilege of living on campus. Any subsequent violation of this Policy or the Code of Conduct, while in this status, will likely result in suspension of residence privileges
4. **Suspension of Activity Privileges:** The student cannot be a member of a recognized or registered student organization, participate in organizations' regularly scheduled activities, serve as a representative of the College, or participate in intramural, club, or intercollegiate sports. Notification of this sanction/status will be sent to appropriate College officials so they will know who may not participate in activities sponsored by their offices.
5. **Disciplinary Probation:** A defined period of time whereby any registered student is given an opportunity to modify her/his behavior or risk losing student status. Any subsequent violation of this Policy or the Code of Conduct, while in this status, will likely result in suspension or expulsion from the College.
6. **Loss of Campus Housing Selection Privilege:** Students assigned this sanction may only enter the housing selection process as an "individual." Students are not permitted to join a "group" or be pulled into a group. Students must follow the necessary procedures outlined within the housing selection materials in order to secure housing as an individual.
7. **Housing Relocation:** Students assigned this sanction will be required to relocate to a new residence hall assignment. This sanction may include restriction from visiting in the previous residence hall.
8. **Suspension of Residence Privileges:** The student's privilege to live on campus and visit the residence areas of the campus is suspended for a defined period of time. The student is not entitled to any refund of campus housing and/or meal plan fees once the standard refund periods have expired.
9. **College Suspension:** Beginning on the date the suspension takes effect, the student may not attend classes or submit any further work for their courses. In addition, the student may not be present on the

campus nor at a College-sponsored event for any reason whatsoever for a specified period of time. The student is not entitled to a refund or any tuition or fees after the scheduled refund dates.

10. **Expulsion:** Beginning on the date the expulsion takes effect, the student may never again register for classes, may never attend classes, or submit any further work for the courses in which they are currently registered. In addition, the student may never be present on the campus nor at a College-sponsored event for any reason whatsoever. The student is not entitled to any refund or any tuition or fees after the published refund dates.
11. **Monetary Fines:** For some policy violations, students will be required to pay monetary fines. Examples of violations where students may be issued a fine include, but are not limited to, alcohol and other drug violations, fire safety violations, social gathering violations, and incidents involving non-compliance.
12. **Community Restitution:** The assignment of imposed service hours and/or participation in educational programs or projects.
13. **Mental Health Assessment:** A student may be required to participate in a mental health assessment through the Center for Health and Counseling. Students are strongly encouraged to follow the recommendation of the mental health practitioner.
14. **Restriction of Privileges:** Students may have their alcohol allowed privileges for their living unit temporarily or permanently revoked. Students may have residence area visitations or campus driving or parking privileges limited or revoked.

#### Recommended Sanctions for Sexual Assault: Non-Consensual Sexual Intercourse

1. **College Suspension:** Beginning on the date the suspension takes effect; the student may not attend classes or submit any further work for their courses. In addition, the student may not be present on the campus nor at a College-sponsored event for any reason whatsoever for a specified period of time. The student is not entitled to a refund or any tuition or fees after the scheduled refund dates.<sup>14</sup> OR
2. **Expulsion:** Beginning on the date the expulsion takes effect, the student may never again register for classes, may never attend classes, or submit any further work for the courses in which they are currently registered. In addition, the student may never be present on the campus nor at a College-sponsored event for any reason whatsoever. The student is not entitled to any refund or any tuition or fees after the published refund dates.

#### Access to Electronic Mail Accounts

Students or former students may have their privilege to use an e-mail account issued through the College revoked for a specified period of time. Specifically, students who have been suspended or expelled from the College, may have their e-mail account terminated immediately (or directly after all appeal procedures have been exhausted).

## X. JURISDICTION & REPORTING TIMEFRAMES

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Since sexual misconduct that occurs off campus may impact a person's work, academic, or co-curricular experience, the College assumes jurisdiction to adjudicate off campus reports of sexual misconduct if the alleged

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<sup>14</sup> Additionally, any number of the Recommended Sanctions 1-14 above may be required in order for a student to re-enroll following a College Suspension.

misconduct was committed by a College student. In addition, the College encourages prompt reporting of sexual misconduct so that the College can respond promptly and equitably; however, the College does not limit the timeframe for reporting. If the respondent is no longer affiliated with the College at the time the report is made, then the College will continue to conduct an investigation for purposes of complying with Title IX and take steps to prevent the recurrence of such conduct and remedy the effects, if appropriate.

## XI. COLLEGE ALCOHOL & DRUGS AMNESTY

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In recognition of the College's primary concern for the health and safety of its community, a "Good Samaritan Policy" was established to provide amnesty from infractions under the College's Student Code of Conduct for alcohol and drug use under certain circumstances. The policy is intended to encourage students to seek assistance for themselves or someone else by reducing fear of facing disciplinary action under the College's Student Code of Conduct for alcohol and/or drug use. Further, the Good Samaritan Policy attempts to remove barriers that prevent students from seeking the medical or law enforcement attention (or other assistance) that they need when sexual misconduct has occurred.

However, the Good Samaritan Policy does not necessarily grant amnesty for criminal, civil or legal consequences for violations of federal, state or local laws. The local law enforcement authority (Mahwah Police Department) has sworn police officers with full arrest authority and, in some circumstances, they have discretion to exercise that (arrest) authority as circumstances dictate according to their training and professional experience.

## XII. RECORDKEEPING

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The College will retain all records related to reports of sexual misconduct under this Policy in a secured storage area maintained by the Title IX Coordinator for a minimum period of seven (7) years from the date of the outcome letter, regardless of case outcome.

Student sexual misconduct records will be maintained in accordance with the storage and retention schedules for student records at the College and the New Jersey Division of Archives and Records Management. Such records are protected in accordance with current guidelines established under FERPA and the New Jersey Open Records Act (OPRA). Generally, in accordance with these laws, the record of most disciplinary proceedings' findings are not open to the public. The Clery Act prohibits institutions from releasing personally identifiable information regarding the victim of a crime of violence or a sexual assault (as defined as rape, fondling, incest or statutory rape.) Nothing in FERPA, the Clery Act or Title IX prohibits the institution from releasing the result, the reason for the result and the associated sanctions with the Complainant and the Respondent, and it is the right of each party to receive such outcomes. The College would never require a victim of a crime of violence or sexual assault to sign a non-disclosure agreement nor cooperate with law enforcement without his or her consent.

## XIII. NON-RETALIATION

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Retaliation, as defined in Section IV ("Definitions"), occurs when an adverse action is taken against the person who has brought the report or assisted in a resulting investigation under this Policy. It is important to note that impermissible retaliation can occur even in those circumstances where it is determined that the underlying report could not be substantiated.

Any allegations of retaliation will result in an immediate investigation and appropriate action consistent with

the College's due process procedures. Acts of retaliation may include, but are not limited to:

- Pressuring or enlisting the aid of third parties to have a complainant to withdraw the complaint;
- Bullying, harassment, slut-shaming or blackballing a participant in a complaint through social media or the internet;
- Lowering a grade;
- Stalking or threatening;
- Removal from classes, teams, activities;
- Employment actions such as termination, demotion, or change in schedule without cause;
- Other actions affecting a person's employment or academic or school-related activities such as threats, unjustified negative evaluations, unjustified negative references, or increased surveillance; and
- Any other action such as an assault or unfounded (i.e. baseless or falsely reported) civil or criminal charges that are likely to deter reasonable people from pursuing their rights.

*NOTE: Adverse actions do not include petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral evaluation, "snubbing", not talking to a student, or negative comments that are justified by a student or employee's poor academic or work performance or history.*

It is unlawful and a violation of College policy to retaliate against any faculty, staff member, or student who has brought a good-faith report of sexual misconduct or who has assisted in the investigation of a report of sexual misconduct. Retaliation destroys the sense of community and trust that is critical to a learning and work environment. The College considers acts of retaliation in response to such disclosures or participation to constitute a serious violation of College policy, which may result in disciplinary action, up to and including dismissal, against the retaliator.

If you believe that you are being retaliated against because of making a report or assisting in an investigation in violation of this Policy, you should promptly report your concerns to the Title IX Coordinator.

*Any other allegation of retaliation **not related to this Policy** should be reported immediately to the Office of Affirmative Action and Workplace Compliance at (201) 684-7540.*

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*Questions or comments about the Sexual Misconduct Policy Governing Students may be addressed to:  
Kat McGee, Director of Title IX, ADA and Compliance Training  
E-mail: [kmcgee@ramapo.edu](mailto:kmcgee@ramapo.edu)*

*For more information about the Office of Title IX please visit: [www.ramapo.edu/titleix](http://www.ramapo.edu/titleix)*

**A. On-Campus Resources**

<b>Type of Resource</b>	<b>Office on Campus</b>	<b>Location</b>	<b>Telephone</b>
<b>Health/Medical Treatment</b>	Health Services*	Near South Gate entrance	(201) 684-7536
<b>Mental Health</b>	Counseling Services* <sup>15</sup>	D-216	(201) 684-7522
<b>Legal Assistance</b>	<i>Refer to “Off Campus Resources” Below</i>		
<b>Advocacy and Education</b>	Women’s Center	C-214	(201) 684-7468
<b>Assistance with Financial Aid</b>	Financial Aid	E-210	(201) 684-7549
<b>Assistance with Visa &amp; Immigration</b>	Office of International Student and Scholar Services	ASB-213	(201) 684-7533
<b>Title IX Coordinator</b>	Equity, Diversity, Inclusion & Compliance	ASB-017	(201) 684-7220
<b>Public Safety</b>	Public Safety Department	C-102	(201) 684-6666
<b>Prevention Education Coordinator</b>	Office of Violence Prevention	C-216	(201) 684-7430

\* **Designated confidential resource.** Confidential resources are not obligated to report information that is given to them. This allows students to explore his or her options in order to make informed decisions. The only exceptions to this rule are in cases that involve imminent risk of serious harm, emergent hospitalization, or a court order. While specific information may be kept confidential, these incidents may be counted for statistical purposes, as per the Clery Act.

**B. Off-Campus Resources**

<b>Type of Resource</b>	<b>Off Campus Provider</b>	<b>Contact Information</b>
<b>Health/Medical Treatment</b>	Planned Parenthood - Hackensack Center	(201) 489-1140
	Valley Hospital, Ridgewood New Jersey	(201) 447-8000
<b>Mental Health</b>	Bergen County Division of Mental Health Services	(201) 634-2745
	Bergen Regional Medical Center	1 (800) 730-2762
<b>Legal Assistance</b>	Bergen County Prosecutor’s Office	(201) 646-2300
	Bergen County Bar Association	(201) 488-0044
	Bergen County Victim Witness Advocacy Unit	(201) 646-2057

<sup>15</sup> Please request to speak with a **confidential** Counselor.

	Department of Justice	ovw.usdoj.gov/sexassault.htm
<b>Survivor Advocacy and Resources</b>	healingSPACE Sexual Violence Resource Center	(201) 487-2227
	Alternatives to Domestic Violence	(201) 336-7575
	Rape, Abuse and Incest National Network	www.rainn.org
<b>Counseling</b>	Bergen County Div. of Mental Health Services	(201) 634-2745
<b>Assistance with Financial Aid</b>	Free Application for Federal Student Aid (FAFSA)	https://fafsa.ed.gov/
<b>Assistance with Visa &amp; Immigration</b>	U.S. Department of State, Bureau of Consular Affairs	
	Nonimmigrant Visa inquiries	202-485-7600
	Immigrant Visa inquiries	603-334-0700
<b>Local Law Enforcement</b>	Mahwah Police Department	(201) 529-1000
<b>State Law Enforcement</b>	New Jersey State Police	(973) 344-1704
<b>Where to obtain a Restraining Order</b>	Mahwah Police Department	(201) 529-1000

### **Department of Education Office for Civil Rights**

The OCR office for New Jersey is located at:

New York Office

Office for Civil Rights, U.S. Department of Education

32 Old Slip, 26th Floor

New York, NY 10005-2500

Telephone: 646-428-3900

FAX: 646-428-3843; TDD: 800-877-8339

Email: [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)

### **C. How to Contact the Office of Title IX, ADA and Compliance Training**

Kat McGee, Director of Title IX, ADA and Compliance Training

E-mail: [kmcgee@ramapo.edu](mailto:kmcgee@ramapo.edu)

Phone: (201) 684-7220

### **D. Frequently Asked Questions**

**Q: Do I have the right to contact no one if I have been sexually harassed or sexually assaulted?**

**A:** Yes, you control who you tell and how much information you share. However, the College encourages prompt reporting of sexual harassment and sexual misconduct, so the College may take prompt steps to end the misconduct, prevent the recurrence, and to remedy the effects of such harassment or violence. Even if you do not want to make a report so an investigation can occur, we strongly encourage you to visit the Counseling Services to discuss your options and to get mental health assistance/counseling services, victim advocacy, and support. Please request to speak with a **confidential** counselor if you do not wish to make a formal report of the sexual misconduct.

**Q: What happens when I report sexual misconduct to an office or college employee that is not confidential?**

**A:** When you report an incident(s), the College employee will report the misconduct to the Title IX Coordinator. The Title IX Coordinator will invite you to participate in a Title IX investigation. The Title IX Coordinator (or designee) will take notes and ask specific questions with regard to who harmed you, where the incident(s) took place, how many times the incident(s) took place, and if there were any witnesses to the incident(s). At that point, if enough information is provided to determine that what you are describing could potentially be a violation of this Policy, then the Title IX Coordinator will assign your case for investigation. At least one Investigator will be assigned and will fully interview you, witnesses, and the accused party as well as to collect any and all evidence the parties may have. The preponderance of the evidence standard (more likely than not to have occurred) will be used to determine if the accused party is responsible. If the accused party is responsible, the respective Deputy Coordinator will issue sanctions and notify both parties in writing. If the accused party is not responsible, both the complainant and respondent will be notified in writing accordingly. No matter the outcome, both parties will receive notice, in writing and simultaneously, of any result and as such results become final.

Additionally, reports will be assessed to determine whether the College should send a Timely Warning Notice (TWN) in order to protect the community. A TWN will not identify the victim, but may include information such as the location of the incident and a succinct description of the incident.

**Q: If I disclose my incident to a faculty member so I can get an accommodation in class, like an extension on a paper or a test, what will happen?**

**A:** Your faculty member is a Responsible Employee under Title IX, and as such, will have to report information you provide to him/her to the Title IX Coordinator, including your name. If you need an accommodation, the best thing to do is to tell the Title IX Coordinator directly (or tell your faculty member, who will report on your behalf.) Reporting still gives you control over how much information you share and the College is still required to provide you with on and off campus resource information and support.

**E. YWCA Bergen County’s healingSPACE Mobile Application**

The YWCA Bergen County’s healingSPACE (hereafter “the Center”) is the County’s only sexual violence resource center. The Center has a mobile application that connects users directly to the Center. The mobile application helps users address the threat, treatment, and prevention of sexual violence. Users have the ability to make immediate, emergency, contact with a confidential sexual violence advocate hotline and obtain assistance concerning what to do in the case of a sexual assault. The mobile application also allows users to connect with friends through preprogrammed text messages.

The mobile application is free and downloadable from the App Store and Google Play (search for “ywhealingspace”).

The Center is a safe, welcoming place for survivors of sexual assault/abuse and their families and friends. The Center provides free and confidential assistance through a 24/7 crisis intervention hotline (201-487-2227). The trained advocates provide counseling, as well as medical and legal accompaniments to survivors.

Individuals who are incapacitated cannot consent to sexual activity. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing and informed consent. Incapacitation renders an individual unable to understand the fact, nature, or extent of the sexual activity, e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction.

Incapacitation that renders a person mentally or physically helpless may result from intoxication or substance use, passing out, being asleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that sexual contact is occurring. Consent is not present if someone is incapacitated by alcohol or drugs (legal or illegal). A person with a cognitive impairment such as a mental illness or a mental condition that renders the person incapable of understanding the nature of his or her conduct cannot consent to sexual activity.

When incapacitation occurs because of alcohol or drug use, some indicators of incapacitation may include, but is not limited to:

- Slurred speech;
- Bloodshot or unfocused eyes;
- Shaky equilibrium;
- Needing assistance to walk/stand;
- Vomiting;
- Outrageous or unusual behavior;
- Highly diminished decision-making capacity or ability to make fully-informed judgments;
- Concern expressed by others about the individual; or
- Expressed memory loss or disorientation.

An individual also may be in a state known as a “blackout” when she or he is incapacitated and likely will have no memory of the sexual activity, but may still be walking and talking. Therefore, it is particularly important that people engaging in sexual activity know each person’s level of intoxication or impairment before beginning sexual activity.

**For purposes of this Policy, the standard that shall be applied is whether or not a reasonable person would have known, based on the facts and circumstances presented, that the other person was incapacitated and therefore, not capable of giving consent.** A reasonable person is assumed to be sober and using good judgment. A respondent cannot claim that being under the influence of alcohol or drugs is a defense or excuse for engaging in sexual misconduct.

***What are Restraining Orders?***

Restraining Orders are judicial orders issued by a judge when the applicant appears to be in danger of domestic violence. In the State of New Jersey, domestic violence is defined as an adult or emancipated minor who has a specified relationship to the victim that commits one of the following crimes against you:

- |                         |                             |
|-------------------------|-----------------------------|
| 1. Homicide;            | 8. Criminal sexual contact; |
| 2. Assault;             | 9. Lewdness;                |
| 3. Terroristic threats; | 10. Criminal mischief;      |
| 4. Kidnapping;          | 11. Burglary;               |
| 5. Criminal restraint;  | 12. Criminal trespass;      |
| 6. False imprisonment;  | 13. Harassment;             |
| 7. Sexual assault;      | 14. Stalking.               |

In New Jersey, there are three kinds of Restraining Orders that can protect you and others in your family or home:

1. Emergency Order (designed to protect you after hours until a court opens and you have the ability to ask for a Temporary Restraining Order). These may be obtained calling the police or 911. The judge on call will be able to grant you an Emergency Temporary Order if he/she feels the order is necessary to protect your life, health, or well-being.
2. Temporary Restraining Order (lasts until a full hearing). When you file a complaint for a restraining order during normal court business hours, you may ask for a temporary restraining order to be issued immediately. The judge will grant you this temporary restraining order (TRO) if they find that the order is necessary to protect your life, health, or well-being. TROs are issued when it would place the victim in danger by waiting to receive an order at the hearing for a final restraining order. A full court hearing is scheduled within 10 days after the initial issuance of a TRO.
3. Final Order (lasts indefinitely, unless an expiration date is specified). After a hearing in which both sides have the opportunity to present testimony, evidence, and witnesses, a judge can grant you a final restraining order.

***How will I know when the Restraining Order ends?***

An Emergency Order lasts until normal court business hours. A Temporary Restraining Order lasts until the full court hearing, which is scheduled within 10 days of its issuance. A Final Restraining Order lasts forever, unless the judge specifies an expiration date.

***Where do I go to request a Temporary Restraining Order?***

You should go to the general district court in the jurisdiction in which you reside. If the court is not open for normal business hours, you can request an Emergency Order by calling either 911 or the police.

***How do I get a Temporary Restraining Order?***

You must fill out court forms. You then may go into a courtroom where a judge may ask you questions to decide whether to issue a Temporary Restraining Order.

***How much does it cost to file for a Restraining Order?***

There is no cost.

### ***Do I qualify for a Restraining Order?***

In order to get a domestic violence restraining order, there must be a special relationship between you and the abuser. This relationship is defined as:

- A spouse or former spouse;
- Any present or former household member (if you are 18 or older, or an emancipated minor);
- Someone with whom you have a child in common, or are pregnant and expecting a child with;
- Someone you are dating or have dated.

Furthermore, any person alleging to be a victim of nonconsensual sexual contact, sexual penetration, or lewdness, or any attempt at such conduct, and who is not eligible for a restraining order as a “victim of domestic violence” may seek a temporary protective order under the Sexual Assault Survivor Protection Act of 2015.

**Note:** If you do not have the necessary relationship to file for a domestic violence restraining order, the perpetrator may still be committing a crime for which you can get a criminal court restraining order if he or she is arrested. If this is the case, you can call the police and ask for the perpetrator to be arrested. If they are charged in criminal court, you can ask for, and will likely receive, a criminal court restraining order that will prohibit your abuser from making any contact with you, or prohibit you from visiting your home, property, place of work, or any other venue named in the restraining order that you frequent.

### ***What should I bring with me?***

You should bring the name, address and identifying information of the person from whom you are seeking protection and a full description of the event(s) that led you to seek a protective order. The address should be the place where the person can be found and not a P.O. Box. You also should bring your copy of the Emergency Restraining Order and information about the warrant or petition alleging an act of violence, force or threat, if either was issued.

Campus Public Safety, the Title IX Coordinator, or the Mahwah police department is available to assist individuals seeking a protective order and will coordinate safety plans in collaboration with Student Life or Human Resources, when appropriate.

Regardless of whether a complainant elects to pursue a criminal report, the College will assist reporters of sexual assault, domestic violence, dating violence, and stalking and will provide each complainant with a written explanation of his/her rights. The College complies with New Jersey’s state law in recognizing restraining orders and encourages any person who obtains a restraining order from New Jersey or any other state to provide a copy to Campus Public Safety and the Title IX Coordinator. A complainant may then meet with Campus Public Safety to develop a Safety Action Plan, which is a plan for Campus Public Safety and the victim to reduce risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, changing classroom location, etc.

A Temporary Restraining Order may be available through a law enforcement officer or the victim may request one from the Family Part of the Chancery Division of the Superior Court located at the Bergen County Justice Center, Room 119 10 Main Street, Hackensack, NJ 07601 (Phone: 201-527-2300). The College cannot apply for an emergency restraining order, or final restraining order for a victim or on their behalf. The College can only apply for a Temporary Restraining Order on the victim’s behalf only if there are extreme circumstances that prevent the victim from physically being in court. A judge may grant you a temporary restraining order with the sworn testimony of a person who represents you only if you are physically or mentally incapable of filing personally. Otherwise, the victim is required to apply directly for these orders and may be assisted by Campus Public Safety or local law enforcement.

Sexual assault and sexual misconduct are never the fault of the victim. With no intent to blame complainants and in recognizing that only abusers are responsible for the acts of abuse they perpetrate, the following are some strategies to reduce one's risk of sexual assault or harassment:

- Make sure you understand how to get and give consent. Make sure all participants have given consent prior to engaging in sexual activity and throughout the sexual activity.
- Be active in supporting a safe and respectful community. If you see others engaging in disrespectful or inappropriate actions, speak up and get involved, or contact someone else to assist.
- Practice being assertive about your boundaries. Respect the boundaries of others.
- Trust your instincts. If you feel uneasy or sense something is wrong, call for assistance.

The following strategies are from the Rape, Abuse, & Incest National Network<sup>16</sup>:

1. **Be aware** of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
2. **Avoid isolated areas.** It is more difficult to get help if no one is around.
3. **Walk with purpose.** Even if you don't know where you are going, act like you do.
4. **Trust your instincts.** If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
5. **Try not to load yourself down** with packages or bags as this can make you appear more vulnerable.
6. **Make sure your cell phone is with you** and charged and that you have money.
7. **Don't allow yourself to be isolated** with someone you don't trust or someone you don't know.
8. **Avoid putting music headphones in both ears** so that you can be more aware of your surroundings, especially if you are walking alone.
9. **When you go to a social gathering, go with a group of friends.** Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
10. **Trust your instincts.** If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).
11. **Don't leave your drink unattended** while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.
12. **Don't accept drinks from people you don't know or trust.** If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
13. **Watch out for your friends, and vice versa.** If a friend seems out of it, is too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
14. **If you suspect you or a friend has been drugged, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).** Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).
15. If you need to get out of an uncomfortable or scary situation here are some things that you can try:
  - a. **Remember that being in this situation is not your fault.** You did not do anything wrong, it is the person who is making you uncomfortable that is to blame.

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<sup>16</sup> [www.rainn.org](http://www.rainn.org)

- b. **Be true to yourself.** Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable with.
  - c. **Have a code word with your friends or family** so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends or family can then come to get you or make up an excuse for you to leave.
  - d. **Lie.** If you don't want to hurt the person's feelings it is better to lie and make up a reason to leave than to stay and be uncomfortable, scared, or worse. Some excuses you could use are: needing to take care of a friend or family member, not feeling well, having somewhere else that you need to be, etc.
16. **Try to think of an escape route.** How would you try to get out of the room? Where are the doors? Windows? Are there people around who might be able to help you? Is there an emergency phone nearby?
17. **If you and/or the other person have been drinking,** you can say that you would rather wait until you both have your full judgment.

The College engages in comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to reduce and eliminate dating violence, domestic violence, sexual assault, stalking and other sexual misconduct which:

- Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research, or assessed for value, effectiveness, or outcome; and
- Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels.

Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, “survivor speak outs,” or other forums in which students, staff, or faculty members disclose incidents of sexual misconduct, are not considered a report of sexual misconduct or notice to the College of sexual misconduct for purposes of triggering the College’s obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the College will provide information about Title IX and Clery rights at these events.

The college delivers primary prevention and awareness programs and ongoing training and education campaigns to students and employees so they may identify: what behavior constitutes sexual misconduct; understand how to report such misconduct; recognize warning signs of potentially abusive behavior and ways to reduce risks; and learn about safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than such individual;

Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students and employees that:

- a. Identifies domestic violence, dating violence, sexual assault and stalking as prohibited conduct;
- b. Defines using definitions provided both by the U.S. Department of Education as well as state law what behavior constitutes domestic violence, dating violence, sexual assault, and stalking;
- c. Defines what behavior and actions constitute consent to sexual activity in New Jersey and/or using the definition of consent found in this Policy;
- d. Provides a description of safe and positive options for bystander intervention. Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene;
- e. Delivers information on risk reduction. Risk reduction means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence; and
- f. Provides assurances for due process as required by the Clery Act as amended by the 2013 Reauthorization of the Violence Against Women Act.

#### **A. Faculty, Staff and Student Training**

1. In addition to the Title IX Coordinator’s core responsibilities, additional services to the College community will include, working with available campus resources to provide ongoing training to new/current students, faculty, and staff on Title IX issues and procedures.
2. The College also has established a Title IX Committee that meets regularly and is responsible for developing, reviewing, and revising protocols, policies and procedures for addressing

overall Title IX Compliance. The Title IX Compliance Committee is responsible for overall annual training to Responsible Employees. For information about the Committee please contact Kat McGee, Director of Title IX, ADA and Compliance Training: [kmcgee@ramapo.edu](mailto:kmcgee@ramapo.edu).

## **B. Being an Active Bystander**

Bystanders play a critical role in the prevention of sexual and relationship violence. They are “individuals who observe violence or witness the conditions that perpetuate violence. These individuals are not directly involved but have the choice to intervene, speak up, or do something about it.”<sup>17</sup> The College promotes a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. Individuals may not always know what to do even if they want to help. Below is a list<sup>18</sup> of some ways to be an active bystander. If you or someone else is in immediate danger, dial 911, if a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

1. Watch out for your friends and fellow students. If you see someone who looks like he or she could be in trouble or needs help, ask if he or she is okay.
2. Confront people who seclude, hit on, attempt to make out with, or have sex with people who are incapacitated.
3. Speak up when someone discusses plans to take sexual advantage of another person.
4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
5. Refer people to on or off campus resources listed in this Policy for support in health, counseling, or with legal assistance.

## **C. Office of Violence Prevention**

The Office of Violence Prevention houses prevention education programs addressing sexual assault, domestic violence, dating violence, and stalking. The office also houses the Violence Intervention Prevention (VIP) Peer Educators who teach other students about sexual violence and affirmative consent.

Location: C-216 (near the Fishbowl)  
Phone Number: (201) 684-7430

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<sup>17</sup> Burn, S.M. (2009). A situational model of sexual assault prevention through bystander intervention. *Sex Roles, 60*, 779-792.

<sup>18</sup> Bystander intervention strategies adapted from Stanford University’s Office of Sexual Assault & Relationship Abuse.

Pursuant to NJSA 18A, Chapter 61E

A college or university in a free society must be devoted to the pursuit of truth and knowledge through reason and open communication among its members. Academic communities acknowledge the necessity of being intellectually stimulating where the diversity of ideas is valued. Its rules must be conceived for the purpose of furthering and protecting the rights of all members of the college community in achieving these ends. The boundaries of personal freedom are limited to applicable state and federal laws and institutional rules and regulations governing interpersonal behavior. In creating a community free from violence, sexual assault and nonconsensual sexual contact, respect for the individual and human dignity are of paramount importance. The state of New Jersey recognizes that the impact of violence on its victims and the surrounding community can be severe and long lasting. Thus, it has established this Bill of Rights to articulate requirements for policies, procedures and services designed to insure that the needs of victims are met and that the colleges and universities in New Jersey create and maintain communities that support human dignity.

### **Bill of Rights**

The following Rights shall be accorded to victims of sexual assault that occur:

- on the campus of any public or independent institution of higher education in the state of New Jersey, and
- where the victim or alleged perpetrator is a student at that institution, and/or
- when the victim is a student involved in an off campus sexual assault.

### **Human Dignity Rights**

- To be free from any suggestion that victims must report the crimes to be assured of any other right guaranteed under this policy.
- To have any allegations of sexual assault treated seriously; the right to be treated with dignity.
- To be free from any suggestion that victims are responsible for the commission of crimes against them.
- To be free from any pressure from campus personnel to:
  - report crimes if the victim does not wish to do so
  - report crimes as lesser offenses than the victim perceives the crime to be
  - refrain from reporting crimes
  - refrain from reporting crimes to avoid unwanted personal publicity.

### **Rights to Resources On and Off Campus**

- To be notified of existing campus and community based medical, counseling, mental health and student services for victims of sexual assault whether or not the crime is formally reported to campus or civil authorities.
- To have access to campus counseling under the same terms and conditions as apply to other students in their institution seeking such counseling.
- To be informed of and assisted in exercising:
  - any rights to confidential or anonymous testing for sexually transmitted diseases, human immunodeficiency virus, and/or pregnancy
  - any rights that may be provided by law to compel and disclose the results of testing of sexual assault suspects for communicable diseases.

### **Campus Judicial Rights**

- To be afforded the same access to legal assistance as the accused.

- To be afforded the same opportunity to have others present during any campus disciplinary proceeding that is allowed the accused.
- To be notified of the outcome of the sexual assault disciplinary proceeding against the accused.

### **Legal Rights**

- To have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported.
- To receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities.
- To receive full, prompt, and victim sensitive cooperation of campus personnel with regard to obtaining, securing, and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault.
- To be free from any suggestion that victims were contributory negligent or assumed the risk of being assaulted.

### **Campus Intervention Rights**

- To require campus personnel to take reasonable and necessary actions to prevent further unwanted contact of victims by their alleged assailants.
- To be notified of the options for and provided assistance in changing academic and living situations if such changes are reasonably available.

### **Statutory Mandates**

Each campus must guarantee that this Bill of Rights is implemented. It is the obligation of the individual campus governing board to examine resources dedicated to services required to implement the Bill of Rights and to make appropriate requests to increase or reallocate resources where necessary to ensure implementation. Each campus shall make every reasonable effort to ensure that every student at that institution receives a copy of this document.

Nothing in this act or in any “Campus Assault Victim’s Bill of Rights” developed in accordance with the provisions of this act, shall be construed to preclude or in any way restrict any public or independent institution of higher education in the State from reporting any suspected crime or offense to the appropriate law enforcement authorities

Ramapo College of New Jersey is committed to providing timely support and assistance to students who experience an incident of sexual assault. Please consider the following resources and information that are described below. **Please initial next to the resource(s) you choose to utilize at this time:**

\_\_\_\_\_ **Counseling:** an emergency Ramapo College of New Jersey counselor will listen and provide sensitive, nonjudgmental support. The counselor will review the New Jersey Campus Sexual Assault Victim’s Bill of Rights and explain your options for medical treatment, support services, and accommodations.

\_\_\_\_\_ **healingSPACE Advocate:** a specially trained advocate will provide information, counseling, and support to help you cope with what you’ve been through. The advocate can discuss options and provide a variety of resources. Also, the advocate can accompany you to all related procedures including medical treatment and meeting with law enforcement or Public Safety.

\_\_\_\_\_ **Law Enforcement Officer:** a specially trained law enforcement officer will take your statement and investigate the crime of sexual assault. You will speak with the law enforcement officer and provide information for investigation. If you do not wish to contact law enforcement at this time you may contact law enforcement to pursue a criminal investigation in the future.

\_\_\_\_\_ **Medical Treatment with Evidence Collection (only available if the assault occurred within the last 5 days):** a specially trained nurse examiner will assist and treat your medical needs associated with the incident, conduct a forensic medical examination, and collect evidence for prosecution. A nurse examiner can conduct an examination and provide preventative treatment for many kinds of sexually transmitted infections and pregnancy. The evidence collected by the nurse examiner can be kept for up to 5 years in the event you choose to speak with a law enforcement officer. Free transportation is available.

**Medical Treatment without Evidence Collection:** If you do not wish to collect evidence for prosecution, a medical professional can examine you and administer preventative medications.

\_\_\_\_\_ *On-campus (available during Ramapo College business hours):* Ramapo College Health Services can provide emergency contraception, pregnancy testing, and/or testing for sexually transmitted infections. These services are provided free of charge for survivors of sexual assault.

\_\_\_\_\_ *Off-campus:* the Planned Parenthood Hackensack Health Center can provide emergency contraception, pregnancy testing and services, STI testing, treatment and vaccines. Planned Parenthood accepts insurance and also offers sliding scale payment options. Free transportation to Planned Parenthood is available. Alternatively, you may seek medical treatment from your own reproductive healthcare provider.

\_\_\_\_\_ **I do not want to utilize any of the above resources at this time.**

I have reviewed the resource list and initialed next to the resource(s) I choose to utilize at this time. I understand that I have the right to pursue these resources at a later date if I choose to do so. I understand that this form will be shared with the Ramapo College of New Jersey Title IX Coordinator to ensure that I have access to the requested resources.

\_\_\_\_\_ Ramapo College of New Jersey Student Signature

\_\_\_\_\_ Print Name

\_\_\_\_\_ Date

\_\_\_\_\_ Ramapo College of New Jersey Personnel Signature

\_\_\_\_\_ Print Name

\_\_\_\_\_ Date

