# Sexual Misconduct Policy

*RAMAPO COLLEGE OF NEW JERSEY*

*Published September 14, 2021*

# PREFACE: EMERGENCY INFORMATION

Ramapo College of New Jersey is committed to providing timely support and assistance to anyone impacted by sexual assault or misconduct (hereafter referred to as the "Complainant")[1]. In the event of an emergency, please 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. Anyone impacted by sexual violence may contact the YWCA Northern New Jersey 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:**
Complainants are strongly encouraged to report all incident(s) of sexual misconduct to College authorities and to the police in order to protect themselves and others. Even if a Complainant does not want to make a formal complaint or file criminal charges they still have the right to other support services. Also, investigation under the Sexual Misconduct Policy is independent from criminal or civil investigations. Campus personnel will not pressure Complainants to report a crime if they do not wish to do so.

To report an incident of sexual misconduct, please 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, however a report may be filed at anytime using the email address or phone voicemail below*)
Kat McGee, Director of Title IX, ADA and Compliance Training
E-mail: kmcgee@ramapo.edu
Phone: (201) 684-7220
Office Location: D-104

**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 (5) days, the responding officer will ask the Complainant if they wish to activate the Bergen County Sexual Assault Response Team (SART). SART provides free coordinated community response in the aftermath of a recent sexual assault. It has been designed to offer a compassionate, trauma-informed approach while collecting evidence, including a forensic exam, 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.

[1] The person who is alleged to be the victim/survivor of sexual misconduct is referred to as the "Complainant" throughout this policy.

The College strongly encourages all members of its community to report violations of this Policy to law enforcement. However, it is the Complainant's choice whether to make such a report and Complainants 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 Complainant with notifying local police if they so desire.

**ONLINE REPORTING:**
A reporting form is available at ramapo.edu/publicsafety/sexual-assault (See "*Report an Incident Now*"). The form may be filled out anonymously, or the Complainant may choose to include identifying information. This form is **not** to be used for emergencies that require an immediate response. If the Complainant is identified the Title IX Coordinator will contact them to provide Supportive Measures and to provide information regarding their rights and resources.

**MEDICAL TREATMENT AND EVIDENCE PRESERVATION:**
After an incident of sexual assault occurs, the Complainant 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 (sometimes referred to as a "rape kit") completed to preserve evidence in case the Complainant 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 Complainant does not have to make a criminal complaint or decide whether to file charges to have forensic evidence collection completed, however the Complainant 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 person who has been sexual assaulted not bathe, douche, smoke, change clothing or clean the bed/linen/area where they were assaulted within 96 hours after the incident occurred so that evidence may be preserved. A forensic examination can occur regardless of factors that may affect the validity of the sample, such as time elapsed (up to 96 hours), use of soaps or detergents, or temperature and humidity, etc. 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.

**SUPPORTIVE MEASURES:**
Requests for supportive measures may be made to the Title IX Coordinator. The parties do not need to participate in an investigation or file charges in order to request support. The Title IX Coordinator will work in conjunction with relevant parties to determine which measures are appropriate to ensure safety and equal access to educational programs and activities. Supportive measures may include:

- Accommodations related to academics, transportation, medical services and counseling.
- Relocation in their on-campus housing assignment, class schedule, or campus job if either will bring them into proximity with the other party.
- A "No Contact Order" may be put in place between the parties involved.
- Providing financial aid-related information, such as how to apply for a leave of absence or addressing concerns about loan repayment.

For more information, please see policy section "Supportive Measures" below.

**More information about resources and reporting is available at: www.ramapo.edu/get-support**

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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 may be addressed to: Kat McGee, Director of Title IX, ADA and Compliance Training at kmcgee@ramapo.edu*

*For more information about the Office of Title IX please visit: www.ramapo.edu/titleix*

# I. INTRODUCTION

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. On May 19, 2020, the U.S. Department of Education (DOE) issued a Final Rule under Title IX of the Education Amendments of 1972[2] (hereafter "Final Rule") that applies to employees and students.

Sexual misconduct refers to a range of prohibited offenses designated under this Sexual Misconduct Policy (the "Policy"). **The following offenses are prohibited by this Policy:**

1. **Sexual Harassment**
2. **Sexual Assault**
3. **Sexual Exploitation**
4. **Stalking**
5. **Dating Violence**
6. **Domestic Violence**

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

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 the parties and holding persons accountable for established violations of this Policy; and
- Providing a written explanation of the rights and options available to persons impacted by sexual misconduct.

In addition, this Policy:

1. Identifies the College's Title IX Administrators, and describes their roles in compliance with guidance from the United States Department of Education's Office for Civil Rights and in compliance with the Clery Act.
2. Identifies how to confidentially report sexual misconduct to the College and what resources are available both on and off campus, including the right to notify local law enforcement and their right also to decline to notify such authorities.
3. Provides information about how student and/or faculty/staff 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.

[2] *See*, 85 Fed. Reg. 30026 (May 19, 2020). The full text of the Final Rule and its extensive Preamble are available at: http://bit.ly/TitleIXReg

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

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 program or activity, admission, 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"). Sexual assault, domestic violence, dating violence and stalking as defined by the Clery Act", are also prohibited conduct under Title IX. The Clery Act was amended by the Violence Against Women Reauthorization Act of 2013 (VAWA). The requirements and protections of this Policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant or Respondent[3].

*For further information regarding equal opportunity, bias, disability, harassment, discrimination and retaliation that is* ***not related to sexual misconduct****, please contact the Office of Equity, Diversity, Inclusion, and Compliance by calling (201) 684-6693.*

## III. TITLE IX OFFICERS

A. **Title IX Coordinator:** 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 Formal Complaints of sexual misconduct at the College. The Title IX Coordinator may also evaluate 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
Phone: (201) 684-7220
Office Location: D104

[3] The person who is alleged to have perpetrated sexual misconduct is referred to as the "Respondent" throughout this policy.

B. **Title IX Deputy Coordinators:** A Deputy Title IX Coordinator (hereafter "Deputy Coordinator") may 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 or potential bias 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:

- Jill Brown, Associate Director of Human Resources
  Email: jcbrown@ramapo.edu
  Phone: 201-684-7507
  Office: D110

- Elizabeth Fanelli, Equity and Compliance Investigator
  Email: efanelli@ramapo.edu
  Phone: 201-684-7386
  Office: D104D

- Kathleen Hallissey, Director of Student Conduct
  Email: khallis1@ramapo.edu
  Phone: 201-684-7869
  Office: C212

- Clare Naporano, Assistant Director of Academic Affairs
  Email: cnaporan@ramapo.edu
  Phone: 201-684-7529
  Office: Adler 210N

- Rachel Sawyer, Associate Director of Equity, Diversity, Inclusion & Compliance
  Email: rsawyer@ramapo.edu
  Phone: 201-684-7487
  Office: D104B

C. **Investigators[4]:** The 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
- preparing an investigative report that fairly summarizes relevant evidence

D. **Hearing Chair, Hearing Officer(s), and Hearing Administrator**

A single Hearing Chair or a panel of Hearing Officers (to include the Hearing Chair) may be utilized for a Title IX hearing. The Hearing Chair is responsible for conducting Title IX hearings in an orderly

[4] Investigators are typically trained internal College employees. The College reserves the right to retain external investigators in its discretion based on the complexity and scope of a complaint.

manner, controlling the conduct of all participants and attendees of the hearing, and rendering a written Determination Regarding Responsibility of the Respondent's alleged conduct charges in an impartial, neutral, and objective manner. If a panel is utilized, the Determination Regarding Responsibility and corresponding sanctions (if any) will be determined by a majority vote of the Hearing Officers.

The Hearing Chair/Officers may not:

- serve as the Title IX Coordinator, Investigator, Appeals Officer or advisor to any party in the same investigation;
- have a conflict of interest or bias in favor of or against Complainants or Respondents generally, or in favor or against the parties to the particular case.

A hearing may also be facilitated by a Hearing Administrator, who is normally the Title IX Coordinator or designee. The Hearing Administrator may also comment on questions of procedure. The Hearing Administrator shall be excluded from Hearing Chair/Officers deliberations and shall not serve as a decision maker.

E. **Appeals Officer:** The Chief Equity and Diversity Officer (or designee) will serve as the Appeals Officer. The Appeals officer makes determinations of timely appeals submitted by either party. The Appeals Officer will be free of conflict of interest and bias, and will not serve as the Title IX Coordinator, Investigator, or Hearing Chair/Officer in the same matter. The decision of the Appeals Officer is final. There is no further appeal within the College.

**Title IX Officer Training:** all Title IX Officers 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. They are also trained on the definition of sexual harassment, the scope of the College's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Hearing Chairs, Officers, and Administrators are trained on the use of any technology to be used at the hearing and on issues of relevance of questions and evidence. Both internal and cxternal investigators are trained to create an investigative report that fairly summarizes relevant evidence.

## IV. DEFINITIONS

**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.[5]

- 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;
- 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,

[5] New Jersey Coalition Against Sexual Assault (2014)

- 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 person cannot claim that being under the influence of alcohol or drugs is a defense or excuse for engaging in sexual misconduct.

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 consent, it shall not be a valid excuse that the Respondent believed that the Complainant consented to the sexual activity under either of the following circumstances:

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

Additionally, it shall not be a valid excuse that the Respondent believed that the Complainant consented to the sexual activity if the Respondent 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.

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

**Complainant**: The person who is alleged to be the victim of conduct that could constitute sexual harassment or misconduct is the Complainant.

**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 faculty/staff 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 faculty/staff 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/staff member is placed in a position that would require him or her to assume educational instruction, evaluation or supervisory authority over a student with whom the supervisor has, or has had, a romantic or sexual relationship, the supervisor 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 faculty/staff member to instruct, evaluate or supervise the student. Any faculty/staff or student who obtains knowledge of such a romantic or sexual relationship between a faculty/staff member and a student is required to disclose it to the Director of Employment Equity and Affirmative Action. Following a review of the information reported and/or a confidential investigation, the Director of Employment Equity and Affirmative Action may refer the matter to the Office of Human Resources for appropriate action.[6]

**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.

**Formal Complaint**: A written document (including an electronic submission) describing the allegations, which is submitted by a Complainant alleging sexual misconduct against a Respondent and requesting that the College investigate the allegation of sexual misconduct. The document must include a signature or other indication that the Complainant is the person filing the Formal Complaint, or the document may be signed by the Title IX Coordinator if the College alleges sexual misconduct against a Respondent. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or otherwise a party in the complaint.

**Gender:** Gender refers to the bundle of dimensions related to 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 may or may not be consistent with a person's sex assigned at birth.

**Gender Bias:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., man, woman, transgender, gender nonbinary.

**Gender Expression:** The presentation of an individual, including physical appearance, clothing choice and accessories, and behaviors that express aspects of gender identity or role. Gender expression may or may not conform to a person's gender identity.

**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. Gender identity may or may not correspond to a person's sex assigned at birth.

**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 Nonbinary:** This refers to individuals who identify and/or exist in ways that sit outside the gender binary. This can mean people whose gender is not at all man/male/masculine or woman/female/feminine, people whose gender involves elements of both of these, people whose gender involves one of these but also aspects outside the binary, people who identify with a third gender, and more. It can be an identity term (e.g., I am gender nonbinary) and an umbrella term of a variety of related experiences. People can be nonbinary and trans, nonbinary and not trans, and trans but not nonbinary.

[6] See Ramapo College Administrative Policy Number 633, Preserving Professional Relationships: www.ramapo.edu/board/policies

**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 sex they were assigned at birth.[7]

**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.

**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, 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. 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;
- Lack of control over physical movements (e.g., inability to dress/undress without assistance; 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.

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

**Parties:** The Complainant and the Respondent in an incident reported to the College under this Policy.

**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:** The person reported to have perpetrated the conduct that could constitute sexual harassment or misconduct is the "Respondent."

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

**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

**Confidential Resources:** individuals who are not obligated to report information that is given to them are Confidential. 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:** professionals who are required to report incidents of alleged sexual misconduct to the Title IX Coordinator are "Mandatory Reporters". When possible, the Title IX Coordinator will keep the identity of an unwilling Complainant 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.

**A. Complainant Requests for Confidentiality:** If the Complainant requests confidentiality, or declines the opportunity to file a Formal Complaint, the College will take all reasonable steps to respond consistent with this request. However, the Complainant should be mindful that the insistence that their name or other identifiable information not be disclosed to the Respondent, or the failure to file a Formal Complaint will severely limit the College's ability to respond to, address, and remedy the sexual misconduct.

The Title IX Coordinator will evaluate the confidentiality request in the context of the College's responsibility to provide a safe and nondiscriminatory environment for all persons, recognizing that the College must move forward with cases in which there appears to be serious threat to any individual or the College as a whole. Where a Complainant requests 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.

If the Title IX Coordinator determines that she/he cannot adhere to a request for confidentiality, the Title IX Coordinator will sign the Formal Complaint on behalf of the Complainant. A formal investigation only begins when a Complainant or the Title IX Coordinator signs a Formal Complaint. Additionally, personally 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 supportive 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.

**B. 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 (*See Appendix A: "Resource Information" below for contact information*). Conversations with the following 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 students impacted by sexual assault.

2. Counseling:

   A. 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.

   B. healingSPACE Counseling Services on Campus: confidential counseling services from the YWCA Northern New Jersey healingSPACE Sexual Violence Resource Center are available on campus in room Lodge 123 by appointment.

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/.

### C. Prevention Education Coordinator

The Prevention Education Coordinator ("PEC") 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. The PEC is a private resource, but non-confidential: if an incident of sexual misconduct is reported to the PEC and the incident is a crime on campus or within the geographic areas designated by the Clery Act, the PEC 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. A timely warning will not identify the Complainant, but may include information such as the location of the incident, a succinct description of the incident, and prevention and reporting strategies. The PEC 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.

### D. 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[8]. 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 Complainants in the College's Daily Crime Log or online. In addition, any person including a Complainant 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

If any student or faculty/staff has been the Complainant of sexual misconduct, they 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 Complainant of sexual misconduct and following a Formal Complaint, will apply appropriate disciplinary procedures to those found to have violated 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 individuals found responsible for violating this Policy.

### A. Contact Information for Reporting

Any person who believes they have 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 report this

[8] 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.

information. An individual does not have to be a member of the College to file a report under this Policy. Please contact:

**1. Title IX Coordinator:**
Kat McGee, Director of Title IX, ADA and Compliance Training
E-mail: kmcgee@ramapo.edu
Phone: (201) 684-7220
Office: D104

**2. The Public Safety Department:** *(available 24 hours a day, 7 days a week)*
Phone: (201) 684-6666
Office: 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 F, below 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, staff, administrators and student employees) is deemed a Mandatory Reporter unless the employee is a designated Confidential Resource previously identified in the "Confidentiality" section of this Policy. A College employee/Mandatory Reporter who learns of an incident of sexual misconduct MUST report it to the Title IX Coordinator within 24 hours. The report must include the name of the Complainant and Respondent, if known.[9]

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 or the Public Safety Department.

**C. Institutional Response Upon Receipt of a Report**

Upon receipt of a report of sexual misconduct, the Title IX Coordinator will inform the Complainant of the availability of medical, counseling and support services, along with additional supportive measures such as housing, academic, transportation and working accommodations, if reasonably available. The Title IX Coordinator will explain the process for filing a Formal Complaint to the Complainant.

Multi-Party Situations: The College may consolidate Formal Complaints allegations against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of covered sexual misconduct arise out of the same facts or circumstances.

**D. Medical Attention**

After an incident of sexual assault, or any other incident of sexual misconduct, the Complainant 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, the Title IX Coordinator will provide the Complainant with options to seek prompt medical attention. (*See Appendix A, below for medical treatment options*).

**E. 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.

[9] Unless directed otherwise by the Title IX Coordinator or designee, Designated Campus Security Authorities must report statistical information so the College may comply with the Clery Act, but are not required to report identifying information.

2. Although the College strongly encourages all members of its community to report violations of this Policy to law enforcement, it is the Complainant's choice whether to make such a report and Complainants 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 Complainant with notifying local police if the Complainant 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 may later choose to file a police report and cooperate with a criminal investigation.) Complainants 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 Complainant can make a report at any time. The Mahwah Police Department may be contacted for additional information concerning sexual assault reports.

5. If a Complainant does not want to make a report to the police, they may seek civil remedies, including the filing of an application for a restraining order. For additional information about civil remedies, the Complainant should contact their 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 as to whether criminal charges are filed, the Complainant can cooperate and provide as much timely information as may be possible.

**F. Timing of Reporting**

The College encourages prompt reporting of sexual misconduct so that it can respond promptly and equitably; however, the College does not limit the timeframe for reporting. As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation or obtaining protection from protective orders related to the incident more difficult. If a Complainant chooses not to make a report regarding an incident, the Complainant nevertheless should consider speaking with the Title IX Coordinator, the Director of Public Safety or local law enforcement to preserve evidence in the event that the Complainant changes their mind at a later time.

**G. Online Reporting**

A reporting form is available at ramapo.edu/publicsafety/sexual-assault (See "*Report an Incident Now*"). The form may be filled out anonymously, or the Complainant may choose to include identifying information. The reporting form may be submitted anytime during the day or evening, however, if a person requires immediate assistance, they should contact Public Safety. The supplier of a report should be mindful that failure to disclose identifying information about the Respondent, the Complainant, 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.

**H. Timely Warning Notice**

The Clery Act requires institutions to disclose crime statistics and assess crime for purposes of issuing Timely Warning Notices (hereafter "TWN"). The Public Safety Department will assess whether a report of sexual misconduct warrants the College sending a TWN in order to protect the community. The College shall

seek to maintain a balanced approach to timely warning situations, ensuring compliance with applicable law while considering the needs and concerns of both the campus community and the Complainant.

When reasonably practicable, the College's Title IX Coordinator or Director of Public Safety (or their designees) will provide the Complainant with:

- Advance notice that a TWN will be issued to the campus community. The content of the TWN will be described and explained to the Complainant;
- An anticipated timeframe of when the TWN will be issued to the campus; and
- The opportunity to speak with an Emergency On Call Counselor.

**H. Good Faith Reporting**

Complaints made in good faith, even if found to be unsubstantiated, shall not be considered a false accusation. Any student, faculty or staff member, who knowingly makes a false accusation under this policy or knowingly provides false information in the course of an investigation of a complaint may be subjected to administrative and/or disciplinary action depending on 1) the circumstances presented and 2) the severity of the impact on the investigation.

## VII. SUPPORTIVE MEASURES

The College may provide supportive measures with or without the filing of a Formal Complaint. These actions are designed to eliminate the harassment/sexual misconduct and prevent its recurrence. Supportive measures are non-disciplinary and non-punitive. Supportive measures may include, but are not limited to, the following to the extent reasonably available and appropriate:

For Students:

- Issuance of a No Contact Order to all parties. This will prohibit communication between the parties, including contact verbally, in writing, through technology, or by third parties.
- Academic measures, such as, assistance in transferring to another section of a course, assistance in requesting withdrawal or an incomplete grade in a particular course, leaves of absence or withdrawal from the College, or assistance requesting alternate methods of completing coursework;
- Increased security and monitoring of certain areas of the campus;
- Housing measures, such as changes in housing assignment;
- Employment measures, such as, arranging for alternate College employment, different work shifts, etc.;
- Arranging a meeting to discuss safety planning;
- Arranging access to counseling services and assistance in setting up initial appointments;
- Arranging access to medical services and assistance in setting up initial appointments;
- Transportation or parking accommodations;
- Any other measure that may be arranged by the College (to the extent reasonably available) to ensure the safety and well-being of a student and/or the College community.

For Faculty/Staff:

- Employment accommodations, such as temporary reassignment, if appropriate, to other work duties and responsibilities, or temporary relocation of work areas or assignment to alternate work groups/teams or alternative supervision/management;
- Increased security and monitoring of certain areas of the campus;
- Arranging a meeting to discuss safety planning;
- Arranging access to counseling services and assistance in setting up initial appointments via the College's Employee Assistance Program;

- Transportation or parking accommodations; and
- Any other measures that may be arranged by the College (to the extent reasonably available) to ensure the safety and well-being of an Employee and/or the College community.

If a Complainant has been impacted by domestic or dating violence, stalking or sexual abuse, they also should consider obtaining a restraining order from the State of New Jersey (see *Appendix B, below*).

## VIII. INTERIM MEASURES

Emergency Removal: A Respondent may be issued an Interim Suspension (i.e. suspension from classes, work and other privileges or activities, or from the College) on an emergency basis until resolution of a case if the College: (1) undertakes an individualized safety and risk analysis, and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations justifies a removal. If the Respondent is issued an Interim Suspension, they will be provided with notice and an opportunity to challenge the decision immediately following the issuance of the Interim Suspension. If a Respondent takes part in Interim Suspension Hearing, notes taken by College officials during the Interim Suspension Hearing may become a part of the investigation record.

The College retains the authority to place a non-student Respondent employee on administrative leave, consistent with the Employee Handbook and/or other applicable College policies.

## IX. INFORMAL RESOLUTION

When appropriate, certain complaints may be resolved by the Title IX Coordinator or Deputy Coordinator without a full investigation or hearing. 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. 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. Informal resolution may NOT be used: 1) to resolve a complaint that an employee engaged in sexual misconduct against a student or 2) if a Respondent has previously engaged in an Informal Resolution process.

If a Complainant requests informal resolution[10], and the Title IX Coordinator concludes that informal resolution is appropriate, the Title IX Coordinator will offer informal resolution as an option to both parties. Both the Complainant and Respondent have the option to: 1) agree to participate or 2) not agree to participate in the informal resolution, and the parties may change their minds at any time until a resolution is reached. Prior to engaging in informal resolution, the Respondent must be made aware of the sanctions that could be employed during the formal resolution process. 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.

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. Further, if the parties agree to an informal resolution process, sanctions will not be imposed on either party, rather, the parties may agree to appropriate remedies. An admission of responsibility made by the Respondent in an informal resolution is not an indication that the institution would have found the Respondent "responsible" for a violation of this

[10] The College may not offer an informal resolution process unless a Formal Complaint is filed by the Complainant. *See* 85 Fed. Reg. 30407.

Policy. Any final resolution pursuant to informal resolution will be documented and kept for seven (7) years. However, no recording of the informal resolution process will be made and all statements made during the informal resolution process cannot be used for or against either party. Should the parties begin (or resume) a formal grievance process, the decision maker(s) and Appeals Officer cannot consider statements made during informal resolution.

Informal resolution may include: establishing supportive measures; issuance of an impact statement; conducting targeted or broad-based educational programming or training for relevant individuals or groups (i.e., sexual harassment training, consent workshop, healthy relationships workshop, alcohol education classes); 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; a letter of warning to the Respondent; a No Contact Order; restriction from participation in specific clubs and/or organizations; restriction from participation in particular events (ie. Senior Sendoff) and any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy. The terms of the informal resolution will be set forth in a written Resolution Agreement.

Both parties must provide voluntary, written consent to the Title IX Coordinator to participate in the informal resolution process. The Respondent has ten (10) calendar days from receiving an invitation from the Title IX Coordinator to participate in informal resolution to reply in writing. The written notice, copied to the Complainant, will include:

- the allegations;
- an explanation of rights through the informal resolution process;
- the requirements of the informal resolution process (including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations);
- any consequences resulting from participating in the informal resolution process (including the records that will be maintained or could be shared).

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 cease informal resolution and instead have a formal investigation of the complaint at any time prior to agreeing to a written Resolution Agreement. Similarly, the parties can request to end a formal investigation and pursue informal resolution at any time prior to the issuance of determination 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, both parties will be provided with a written Resolution Agreement, the Resolution Agreement will be implemented, and the matter will be closed. Failure to comply with a Resolution Agreement may result in disciplinary under the Code of Conduct and/or other applicable College policies.

## X. TITLE IX GREVIANCE PROCESS

**A. Jurisdiction**

Pursuant to the Title IX Final Rule, a Complainant may file a Formal Complaint under the Title IX Grievance set forth in this policy only if the Complainant is currently participating in, or attempting to participate in, the education programs or activities of the College, including as an employee. An “education program or activity” includes:

- locations, events, or circumstances over which the school exercises substantial control over both the Respondent and the context in which the sexual harassment occurs, and
- any building owned or controlled by a student organization that is officially recognized by the College.

Upon receipt of a Formal Complaint, the Title IX Coordinator (or designee) will determine if it falls within the jurisdiction of the Title IX Grievance Process or the jurisdiction of the Sexual Misconduct Grievance Procedures. A complaint falls within the jurisdiction of the Title IX Grievance Process when the following elements are met:

(1) The Formal Complaint is submitted on or after August 14, 2020;
(2) The conduct alleged took place in the United States;
(3) The conduct alleged took place in the College's education program or activity; and
(4) The conduct alleged to have occurred, if true, would constitute sexual harassment as defined by the Final Rule.

**B. Dismissal**

Mandatory Dismissal: If any one of the above four (4) elements are not met, the Title IX Coordinator must provide a Notice of Dismissal to the parties informing them that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Procedures. Each party may appeal this dismissal using the procedure outlined in "Appeals," below. A Formal Complaint that does not fall within the jurisdiction of Title IX will be reviewed to determine whether it falls within the jurisdiction of the Sexual Misconduct Grievance Procedures (*See Article XI, below).*

Discretionary Dismissal: The Title IX Coordinator may dismiss a Formal Complaint brought under this Policy, or any specific allegations therein, if:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- the Respondent is no longer enrolled or employed by the College; or
- specific circumstances prevent the College from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations therein.

Each party may appeal this dismissal using the procedure outlined in "Appeals," below.

**C. Prohibited Sexual Harassment under Title IX**

Pursuant to the Title IX Final Rule, only incidents falling within the U.S. Department of Education's definition of "sexual harassment" will be investigated through the Title IX Grievance Policy. The Final Rule defines "sexual harassment" as conduct on the basis of sex that satisfies one or more of the following:

- **Quid Pro Quo Sexual Harassment**: An employee conditioning educational benefits on participation in unwelcome sexual conduct.

- **Hostile Environment Sexual Harassment**: Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity.

- **Sexual Assault** (as defined in the Clery Act): an offense that meets the definition of rape, fondling, incest, or statutory rape:
    a. **Rape**: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.

b. **Fondling**: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
c. **Incest**: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
d. **Statutory Rape**: Sexual intercourse with a person who is under the statutory age of consent. In the State of New Jersey, a Complainant is unable to consent if they are:
    i. Under the age of 13; or
    ii. At least 13, but less than 16 years old and the actor is at least four years older than the Complainant; or
    iii. At least 16, but less than 18 years old and:
        1. The actor is related to the Complainant by blood or affinity to the third degree; or
        2. The actor has supervisory or disciplinary power over the Complainant by virtue of the actor's legal, professional or occupational status; or
        3. The actor is a resource family parent, a guardian, or stands in loco parentis within the household.

- **Dating Violence** (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act): any violence committed by a person:
    a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
    b. where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.

- **Domestic Violence** (as defined in the VAWA amendments to the Clery Act): any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under New Jersey's domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of New Jersey.

- **Stalking** (as defined in the VAWA amendments to the Clery Act): engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
    a. fear for their safety or the safety of others; or
    b. suffer substantial emotional distress.

**D. Standard of Evidence & Presumption of Not Responsible**

In proceedings under this grievance process, 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. As per the Title IX Final Rule, it is presumed that the Respondent is not responsible for the alleged conduct unless that determination regarding responsibility is made at the conclusion of the Grievance Process.

The College has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of this Policy has or has not occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the College and does not indicate responsibility. The

College will provide an equal opportunity for the parties to present witnesses and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations).

**E. Evidentiary Considerations in the Investigation**

The investigation does not consider: (1) incidents not directly related to the possible violation, unless they evidence a pattern, (2) the Complainant's sexual predisposition or prior sexual behavior (though there may be a limited exception made in regard to questions and evidence about the Complainant's prior sexual behavior which are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent), or (3) evidence that constitutes, or seeks disclosure of, information protected under a legally-recognized privilege, (e.g., attorney client privilege) or any party's medical, psychological, and similar records unless the party has given voluntary, written consent.

**F. Personal Advisors**

The parties have the right to select a personal advisor (hereafter "advisor") of their choice and at their expense. The advisor may be an attorney or non-attorney and the advisor may be selected at any stage of the process. In addition, the advisor may accompany the parties to any meeting or hearing during the investigation, but the advisor may not speak for the party except for the purpose of cross-examination at a hearing. Further, neither the meetings nor the hearing will be substantially delayed due to an advisor's availability.[11] The College will communicate at all times directly with the parties unless specified otherwise by this Policy. It is the responsibility of the parties to forward any communication to their advisor.

At the hearing, a party is not permitted to personally cross-examine the other party; cross-examination must be conducted by an advisor. Therefore, if an investigation results in a hearing and a party does not select an advisor, the College will appoint an advisor to serve in this role for the limited purpose of conducting the cross-examination, at no fee or charge to the party. It is the responsibility of the both the Complainant and Respondent to notify the Title IX Coordinator in writing of whether they have selected their own advisor to accompany them to the hearing by the date of the prehearing meeting.

In addition to selecting an advisor to conduct cross-examination at a hearing, the parties may request a second advisor to accompany the parties to the hearing only (such as a union representative, a Confidential Sexual Violence Advocate, etc.). The second/additional advisor may not speak for the party. It is the responsibility of the Parties to notify the Title IX Coordinator in writing of whether they will request an additional advisor to accompany them to the hearing by the date of the prehearing meeting.

Nothing in the Policy is intended to undermine or alter any rights afforded to a union-represented employee, as provided by applicable law or any collective negotiations agreement, including, but not limited to, a union-represented employee's Weingarten rights.

**G. Timeframes**

The timeframe for the Title IX Grievance Process begins with the Notice of Allegation issued by the Title IX Coordinator. The Title IX Grievance Process is anticipated to be completed within one hundred and fifty (150) days from the Notice of Allegation.

[11] 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.

The College will endeavor to conduct and complete an investigation and/or other appropriate resolution in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. Circumstances may require a temporary delay in the process and the College may extend this timeframe for good cause. In such an instance, the Title IX Coordinator or his/her designee will provide written notice to the parties of the delay or extension and the reason(s) for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement investigation/activity; or the need for language assistance or accommodation of disabilities. In such event, the Title IX Coordinator will advise the parties of the anticipated timeframe for the completion of the investigation.

The timeframe in this section does not include the period the parties attempted but failed to reach an agreement via informal resolution, if applicable, and in such a case, the Grievance Process timeframe will be extended by the period in which the parties attempted to reach an informal resolution.

**H. Intake and Investigation Process**

**1. Initial Assessment:** Upon receiving a report (either verbally or in writing), including a Formal Complaint, the Title IX Coordinator will assess the report. The initial assessment will determine whether the alleged conduct, taken as true, would present a potential violation of the Policy and whether further action is warranted based on the alleged conduct. If an allegation does not meet the elements of a Title IX sexual harassment violation, the matter will be dismissed under the Title IX Grievance Procedures. The College reserves the right to forward reports in which this Policy does not have jurisdiction to the appropriate College office.

The Title IX Coordinator will contact the Complainant (if one is identified) to: (1) gather facts that will enable the Title IX Coordinator to assess the nature and circumstances of the allegation(s); (2) discuss the availability of Supportive Measures; (3) ask about the Complainant's wishes with respect to Supportive Measures; and (4) explain how to file a Formal Complaint.

**2. Notice of Allegations:**

A. Upon the submission of a Formal Complaint alleging covered sexual harassment, the Title IX Coordinator will send the parties a written Notice of Allegation by College email. The Notice of Allegation will contain a summary of the allegation(s) under the Policy. Once the Notice of Allegation has been delivered to the parties, the investigation phase begins. The College will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview. Upon receipt of the Notice of Allegation, 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 parties may request to initiate an Informal Resolution, or proceed with the investigation and hearing process.

B. Ongoing Notice: If, in the course of an investigation, additional allegations of covered sexual harassment which were not included in the Notice of Allegations are reported, the Title IX Coordinator will notify the parties in writing of the additional allegations. The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional allegations is conducted.

**3. Interviews:** The Title IX Coordinator shall assign the case to a Title IX Investigator(s) ("Investigator"). The assigned Investigator 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[12], and collect any other evidence deemed relevant to the case to summarize in an investigation report. All witnesses interviewed during the course of an investigation will be offered the opportunity to review a typed summary of their interview statement, note any corrections they have, and sign it. Preliminary and follow-up interviews may be conducted as appropriate. The assigned Investigator or Title IX Coordinator will provide the parties with written notice of the date, time, location, participants, and purpose of all investigative interviews, hearings, or other meetings with a party, with sufficient time for the party to prepare to participate.

**4. Critical Witnesses**: The Title IX Coordinator may identify an individual as a Critical Witness if the individual 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)."

**5. Evidence Review:** Prior to the completion of the investigation report, the Title IX Coordinator will provide both parties with access to relevant evidence obtained as part of the investigation through an electronic format (the party's advisor, if any, may be provided with this access upon a party's signed information release for their advisor of choice). After both parties have reviewed the evidence, they will be provided an opportunity to respond to the evidence prior to conclusion of the investigation. Therefore, all evidence the parties would like the Investigator to consider as part of the investigation must be submitted prior to the date the evidence is shared with the parties.[13]

Evidence obtained in the investigation that is not directly related to the allegations in the Formal Complaint will not be considered or included in the investigation report and instead will be added to an appendices of the report. As such, only evidence that is directly related to the allegations raised in the Formal Complaint will be available for inspection. It will include any:

1. evidence that is relevant, even if that evidence does not end up being relied upon by the College in making a determination regarding responsibility;
2. inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

Both parties will have ten (10) calendar days from receipt of their notice email to review the evidence and submit a written response citing any further information, evidence or witnesses that they would like considered. All responses to the evidence must be submitted by the party via College email to the Investigator. Advisors are not permitted to submit written responses to the evidence on their own or on behalf of the party they are advising. The Investigator will consider all timely responses submitted by the parties before completing the investigative report. The Title IX Coordinator will provide copies of the parties' written responses, if any, to the opposing party (including their advisor) prior to the hearing, in order to give the parties the opportunity to refer to such evidence during the hearing, including for the purpose of cross-examination.

**6. Preliminary Investigative Report:** The Investigator will complete a preliminary investigative report (hereafter "report"). The report will outline each of the allegations that potentially constitutes prohibited conduct under this Policy, provide the timeline (e.g. procedural steps) of the investigation, and fairly

[12] If the Complainant or Respondent does not respond to the Investigator within10 business days of the Investigator's initial outreach the investigation will nonetheless proceed in his or her absence.

[13] *See*, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

summarize relevant evidence. This report is not intended to catalog all evidence obtained by the Investigator, but only to provide a fair summary of that evidence.

Only relevant evidence (i.e. tending to prove and disprove the allegations, including both inculpatory and exculpatory evidence) will be referenced in the report. Evidence obtained in the investigation that is not relevant, but is directly related to the allegations in the Formal Complaint will be included in the appendices of the report. The Investigator may redact irrelevant information when that information is contained in documents or evidence that are otherwise relevant.[14]

The Title IX Coordinator will provide a completed investigation report concurrently to both parties and each party's advisor, if any, at least ten (10) calendar days prior to the date of the scheduled hearing to review and provide a written response (optional) prior to the hearing. All responses to the report must be submitted by the party via College email to the Title IX Coordinator. Advisors are not permitted to submit written responses to the report on their own or on behalf of the party they are advising. The Title IX Coordinator will issue a copy of the completed investigation report, and any timely responses from the parties, to the Hearing Chair and any Hearing Officer(s) assigned for the hearing.

**7. Prehearing Meeting:** The Title IX Coordinator will convene a separate prehearing meeting with each of the parties and the Hearing Chair. The Title IX Coordinator will generally provide at least five (5) calendar days notice prior to the prehearing meeting.

The purpose of the prehearing meeting is to review information which may include, but not be limited to: the identity and role of personal advisors at the hearing; procedures to be followed at the hearing; the Hearing Rules of Decorum; review restricted evidence that will not be allowed during the hearing; review any hearing time limitations; the names and roles of all hearing participants including the witnesses that will be asked to appear on behalf of the party; confirm there are no conflicts of interest for the Hearing Chair/Officers; establish agreed upon facts; and to answer any other questions or share information prior to the hearing. The College expects that both parties will attend separate prehearing meetings, but neither party is required to participate in the prehearing meeting. It is the responsibility of the Complainant and Respondent to notify the Title IX Coordinator of the persons they wish to be called as witnesses by the date of the prehearing meeting. The Hearing Chair may exclude from the hearing witnesses who were not identified by this date.

## I. Hearing:

**1. Live Hearing Requirement:** Absent a Notice of Dismissal issued by the Title IX Coordinator or the parties' mutual decision to reach an informal resolution agreement (if applicable), the parties will be afforded a live hearing for all Formal Complaints, subject to the Title IX Grievance Process as outlined in this Policy. The College will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without a live hearing. The parties cannot waive the right to a live hearing.

**2. Notice of Hearing:** The Title IX Coordinator will provide at least ten (10) calendar days written notice to the parties (and the participant's advisor, if any) of the hearing, including the date, time, location, names of all participants of the hearing, purpose of the hearing, the Hearing Rules of Decorum, a statement of the allegations, and a summary statement of the evidence gathered.

Either party may challenge the fairness, impartiality or objectivity of a Hearing Chair or Officer selected by the Title IX Coordinator. The challenge must be submitted in writing to the Title IX Coordinator

[14] *See*, 85 Fed. Reg. 30026, 30304 (May 19, 2020).

within four (4) calendar days after receiving the Notice of Hearing, and must state the reasons for the challenge. The Title IX Coordinator will determine whether the Hearing Chair or Officer can serve with fairness, impartiality, and objectivity. In the event that a Hearing Officer recuses themselves, an alternative Hearing Officer will be assigned by the Title IX Coordinator.

**3. Witnesses:** The Title IX Coordinator will notify individuals who are identified as witnesses that their appearance is requested. It is generally expected that witnesses will appear in person to give testimony, however, witnesses cannot be compelled to participate in the live hearing. Witnesses have the right to be free from retaliation, regardless of whether they do or do not participate in the hearing.[15]

**4. Absence or Refusal to Submit to Cross-Examination:** The College may proceed with the live hearing in the absence of a party or witness or on a party's refusal to answer cross-examination or other questions. In addition, the Hearing Chair/Officer may reach a determination in a party or witness' absence. However, a Hearing Chair/Officer cannot draw an inference about the determination regarding responsibility based solely on a party's refusal to answer cross-examination or other questions, or absence from the live hearing.[16]

If a party does not attend the hearing, the party's advisor may appear and conduct cross-examination on their behalf.[17] If neither a party nor their advisor appear at the hearing, the College will provide an advisor to appear on behalf of the non-appearing party.[18]

**5. Technology:** The hearing may be conducted with all parties physically present in the same geographic location, or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through remote video conferencing. This technology will enable participants simultaneously to see and hear each other. All proceedings will be recorded through audio recording. Following the hearing, a copy of the recording will be provided to the parties upon request. Prior to obtaining access to any evidence, the parties and their advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the grievance proceeding. Once signed, this agreement may not be withdrawn.[19]

Cell phones, recording devices, and any other electronic devices may not be used in the hearing room (unless approved by the Hearing Chair in advance) and must be turned off before the hearing convenes.

**6. Participants in the Hearing:** The hearing is a closed proceeding. The only individuals permitted to participate in the hearing are as follows: Hearing Chair/Officers, Hearing Administrator, the Complainant and Respondent, the personal advisor(s) for each party, and witnesses.

All hearing participants are subject to the Hearing Rules of Decorum. Anyone who disrupts a hearing or who fails to adhere to the Hearing Rules of Decorum may be excluded from the hearing.

[15] *See*, 85 Fed. Reg. 30026, 30360 (May 19, 2020).
[16] *See*, 34 C.F.R. §106.45(b)(6)(i).
[17] *See*, 85 Fed. Reg. 30026, 30340 (May 19, 2020).
[18] *See*, 85 Fed. Reg. 30026, 30339-40 (May 19, 2020).
[19] *See*, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

**7. Hearing Procedure**: For hearings conducted under this Title IX Grievance Process, the procedure will generally be as follows:

1. The Hearing Chair or Hearing Administrator will open and establish rules and expectations for the hearing.
2. Presentation of the investigation report by the Investigator, followed by questions to the Investigator by the Hearing Chair/Officers and then advisors.
3. Complainant statement followed by questions to the Complainant by the Hearing Chair/Officers, followed by cross examination by the Respondent's advisor.
4. Respondent statement followed by questions to the Respondent by the Hearing Chair/Officers, followed by cross examination by the Complainant's advisor.
5. Witness testimony and questioning by the Hearing Chair/Officer(s). Advisors for the Complainant and Respondent will be given the opportunity for live cross-examination after the Hearing Officer(s) conduct(s) an initial round of witness questioning. During the Parties' cross-examination, the Hearing Chair/Officer(s) will have the authority to pause cross-examination at any time for the purposes of asking the Hearing Chair/Officer's own follow up questions; and any time necessary in order to enforce the established rules of decorum.
6. Closing statement by Complainant.
7. Closing statement by Respondent.
8. The Hearing Chair or Hearing Administrator will conclude the hearing.

During the hearing, the Hearing Chair or Hearing Administrator will not apply the technical rules of evidence followed in criminal or civil legal proceeding nor entertain technical legal motions. Technical legal rules pertaining to the wording of questions, hearsay, and opinions will not be formally applied.

**8. Live Cross-Examination:** Each party's advisor will conduct live cross-examination of the other party or parties and witnesses. During this cross-examination, the advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real time.

Only relevant cross-examination and other questions may be asked of a party or witness. Before any cross-examination question is answered, the Hearing Chair must first determine if the question is relevant and explain any decision to exclude a question as not relevant. Cross-examination questions that are duplicative of those already asked, including by the Hearing Chair/Officers may be deemed irrelevant if they have been asked and answered.

Questions regarding the Complainant's sexual predisposition or prior sexual behavior are prohibited (though there may be a limited exception made in regard to questions and evidence about the Complainant's prior sexual behavior which are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent).

Should a party or their advisor choose not to cross-examine a party or witness, the party shall affirmatively waive cross-examination through a written or oral statement to the Hearing Chair. A waiver of cross-examination does not eliminate the ability of the Hearing Chair/Officers to use statements made by the party or witness.

**9. General Considerations for Evaluating Testimony and Evidence:**

a. Credibility: The Hearing Chair/Officers may not draw inferences regarding a party or witness credibility based on the party or witness status as a Complainant, Respondent, or witness, nor shall it base its judgments in stereotypes about how a party or witness would or should act under the circumstances.

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the judgment of the Hearing Chair/Officers. Generally, credibility determinations should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence. Still, credibility judgments should not rest on whether a party or witness' testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

b. Weighing Testimony:

1. First-Hand Testimony: The Hearing Chair/Officers will afford the highest weight relative to other testimony to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred. Except where specifically barred by the Title IX Final Rule, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

2. Expert Witnesses: The Final Rule requires that the College allow parties to call "expert witnesses" for direct and cross examination. While the expert witness will be allowed to testify and be cross-examined as required by the Final Rule, the Hearing Chair/Officers afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross examination and regardless of whether all parties present experts as witnesses.

3. Character Witnesses: The Final Rule requires that the College allow parties to call character witnesses to testify. While the character witnesses will be allowed to testify and be cross-examined as required by the Final Rule, the Hearing Chair/Officers will afford very low weight to any non-factual character testimony of any witness.

4. Polygraph Tests: The Final Rule requires that the College admit and allow testimony regarding polygraph tests (commonly referred to as "lie detector tests") and other procedures that are outside of standard use in academic and nonacademic conduct processes. While the processes and testimony about them will be allowed to testify and be cross-examined as required by the Final Rule, the Hearing Chair/Officers will afford lower weight to such processes relative to the testimony of fact witnesses.

5. Retaliation: Where a party or witness conduct or statements demonstrate that the party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the Hearing Chair/Officers may draw an adverse inference as to that party or witness credibility.

**10. Continuances or Granting Extensions:** The Hearing Chair or Hearing Administrator may determine that multiple sessions or a continuance (i.e. a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, the Title IX Coordinator will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

**J. Determination Regarding Responsibility**

If there are no extenuating circumstances, the Hearing Chair will render a written decision ("Determination Regarding Responsibility") within ten (10) business days after the conclusion of a hearing. The Determination Regarding Responsibility will be issued simultaneously to all parties by the College email. The Title IX Coordinator and the Appeals Officer shall be copied on all outcome notices. The Director of Human Resources shall be copied on all outcome notices for employee Respondents.

The Determination Regarding Responsibility will include:

1. Identification of the allegations potentially constituting covered sexual harassment;
2. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding which section of the Policy, if any, the Respondent has or has not violated;
5. For each allegation:
    a. A statement of, and rationale for, a determination regarding responsibility;
    b. A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the Respondent (See *Sanctions Article XII, below*); and
    c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Complainant; and
6. The College's procedures and the permitted reasons for the Complainant and Respondent to appeal.

The Determination Regarding Responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

**K. Appeals:**

Either party may appeal in writing to the Appeals Officer:

- the College's dismissal of a Formal Complaint (or any allegations in the Formal Complaint),
- all determinations, including not responsible findings.

Appeals are not heard in person; instead all requests for appeal must be submitted in writing to the Appeals Officer within five (5) business days from the date on the letter notifying the parties of the original determination or dismissal. Failure to appeal within the allotted time will render the original decision final.

<u>Appeals shall be granted only on one or more of the following grounds:</u>

1. If the sanctions are found to be significantly disproportionate to the offense;
2. Procedural irregularity that affected the outcome of the matter;
3. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and

4. The Title IX Coordinator, Investigator(s), or Hearing Chair/Officers had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

The fact that one of the parties disagrees with the finding or sanction does not constitute grounds for appeal. Although a Complainant may appeal on the ground that the remedies are not designed to restore or preserve the Complainant's access to the College's education program or activity, a Complainant is not entitled to a particular sanction against the Respondent.

The Title IX Coordinator will send the parties a written Notice of Appeal when an appeal is submitted, and both parties will have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

If the Appeals Officer finds no grounds for an appeal, then the decision will become final. There is no further appeal within the College.

If the Appeals Officer 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 Chief Equity and Diversity Officer (or designee) is final. There is no further appeal within the College.

The Appeals Officer will issue a written decision describing the result of the appeal and the rationale for the result within ten (10) business days from the date the appeal is received. The decision will be sent to the parties simultaneously and in writing by College email. The Title IX Coordinator and Hearing Chair/Officers shall be copied on all outcome notices. The Director of Human Resources shall be copied on all outcome notices for employee Respondents.

Supportive measures will remain in place during the appeal process.

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

The protocol established by this Policy will not be deferred due to the withdrawal from enrollment or employment at the College of a Complainant or Respondent after the Notice of Allegation has been issued. 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.

## XI. SEXUAL MISCONDUCT GRIEVANCE PROCESS

**A. Jurisdiction**

Ramapo College is committed to addressing and eliminating all sexual misconduct on our campus, or which directly impacts members of our community. To the extent that alleged misconduct falls outside of the jurisdiction of the Title IX Grievance Process, the College retains authority to investigate and adjudicate sexual misconduct allegations through a separate grievance process.

The Sexual Misconduct Grievance Process 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. The process prohibits any employee, student, visitor or any other third party from engaging in sex-based discrimination as defined in this Policy. The

College's disciplinary response may be limited if the Respondent is a visitor or other third-party or is not subject to the College's jurisdiction. If the Respondent is not subject to the College's jurisdiction at the time the report is made, then the College will determine appropriate action to prevent the recurrence of such conduct and remedy the effects, if appropriate. In addition, an individual does not have to be a member of the College to file a report under this Policy.

*College Employees: If an employee Respondent is alleged to have engaged in sexual misconduct that does not fall within the jurisdiction of the Title IX Grievance Process (See Article IX, above), the matter will be referred for appropriate action under the New Jersey State Policy Prohibiting Discrimination in the Workplace.*[20]

**B. Dismissal**

The Title IX Coordinator may dismiss a Formal Complaint brought under this Policy, or any specific allegations therein, if:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- the Respondent is no longer enrolled or employed by the College; or
- specific circumstances prevent the College from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations therein.

Each party may appeal this dismissal using the procedure outlined in "Appeals," below.

A Formal Complaint that does not fall within the jurisdiction of the Title IX Grievance Process or the Sexual Misconduct Grievance Process will be referred to the Office of Student Conduct for appropriate action under the Student Code of Conduct.

**C. Prohibited Sexual Misconduct[21]:** "Sexual misconduct" includes any conduct on the basis of sex that satisfies one or more of the following:

1. **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 Complainant; 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.

2. **Domestic Violence:** Threatened or actual physical or sexual violence committed by a current or former spouse of the Complainant, by a person with whom the Complainant shares a child in common, or by a person cohabitating with (or having cohabitated with) the Complainant who is or has been in a social relationship of a romantic or intimate nature with the Complainant.[22]

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

[20] Available at: https://www.ramapo.edu/affirmaction/complaint-processing-forms/

[21] Please note that these definitions are behavioral definitions, not legal or criminal definitions.

[22] For purposes of this Policy, Domestic 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).

- Hitting, punching, pinching, slapping, or choking someone with whom the person is intimately involved.
- Violating a protective order.
- Touching an intimate partner sexually without the person's consent.

3. **Retaliation**: Retaliation is defined as any materially adverse action taken because of a person's participation in a protected activity. Protected activity includes reporting an incident that may implicate this Policy and assisting in providing information relevant to an investigation. 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 XV, below.*

4. **Sexual Assault:**
   - **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 or any other bodily contact in a sexual manner. 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 or contact, 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 retaliate against them 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.

5. **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. Consent to be recorded does not imply consent for the recorded sexual activity to be displayed or otherwise disseminated;
- 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, or inducing others to expose their genitals or intimate parts.
- "Stealthing" which involves intentionally removing a condom without another party's consent during sexual activity.

6. **Sexual Harassment:** Unwelcome conduct of a sexual nature which 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.

   Sexual Harassment also exists when 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 conduct that implies that a person will suffer adverse consequences from a person in an express or implied position of authority.

   Examples of behavior that could constitute Sexual Harassment may include the following:

   - Unwelcome sexual advances or inappropriate touching;
   - Requests for sexual favors;
   - Calling someone by a sexually-oriented or demeaning name;
   - Sexually suggestive comments;
   - 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;
   - Public display of pornographic or suggestive calendars, posters, or signs where such images are not connected to any legitimate academic or workplace purpose.
   - 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 they are not interested; or
   - Exposing your private parts to another person without his or her consent.

7. **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 could constitute stalking may include two or more instances of 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.

**D. Standard of Evidence & Presumption of Not Responsible**
In proceedings under this Sexual Misconduct Grievance Process, 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. It is presumed that the Respondent is not responsible for the alleged conduct unless that determination regarding responsibility is made at the conclusion of the Sexual Misconduct Grievance Process.

The College has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of this Policy has or has not occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the College and does not indicate responsibility. The College will provide an equal opportunity for the parties to present witnesses and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations).

**E. Evidentiary Considerations in the Investigation**
Unless the Title IX Coordinator determines it is appropriate, the investigation does not consider: (1) incidents not directly related to the possible violation, unless they evidence a pattern, (2) the sexual history of the parties (though there may be a limited exception made in regard to the sexual history between the parties or when evidence regarding the Complainant's sexual history is offered to prove that someone other than the Respondent engaged in the reported misconduct, or if the evidence concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent), (3) the character of the parties, (4) evidence that constitutes, or seeks disclosure of, information protected under a legally-recognized privilege, e.g., attorney client privilege, or any party's medical, psychological, and similar records unless the party has given voluntary, written consent.

**F. Personal Advisors**
The parties have the right to select a personal advisor (hereafter "advisor") of their choice who may be an attorney or non-attorney, at their expense, at any stage of the process. The advisor may accompany the parties to any meeting or hearing during the investigation, but may not speak for the party. Meetings and interviews will not be substantially delayed due to an advisor's availability.[23] 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.

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.

**G. Timeframes**
The timeframe for the Sexual Misconduct Grievance Process begins with the Notice of Allegation. The Sexual Misconduct Grievance Process is anticipated to be completed within one hundred and twenty (120) days from the Notice of Allegation.

The College will endeavor to conduct and complete an investigation and/or other appropriate resolution in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. Circumstances may require a temporary delay in the process and the College may extend this timeframe for good cause. In such an instance, the Title IX Coordinator or his/her designee will provide written notice to the

[23] 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.

parties of the delay or extension and the reason(s) for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement investigation/activity; or the need for language assistance or accommodation of disabilities. In such event, the Title IX Coordinator will advise the parties of the anticipated timeframe for the completion of the investigation.

The timeframe in this section does not include the period the parties attempted but failed to reach an agreement via informal resolution, if applicable, and in such a case, the grievance process timeframe will be extended by the period in which the parties attempted to reach an informal resolution.

**H. Intake and Investigation Process**

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

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 supportive measures. The Title IX Coordinator will also advise the Complainant of the process to file a Formal Complaint.

If a Formal Complaint does not meet the elements of a sexual misconduct violation, the matter will be dismissed under the Sexual Misconduct Grievance Process. The Title IX Coordinator will provide a Notice of Dismissal that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Procedures. This dismissal may be appealed using the procedure outlined in "Appeals," below. The College reserves the right to forward reports in which this policy does not have jurisdiction to the appropriate College office.

**2. Notice of Allegations:**

A. Upon the submission of a Formal Complaint alleging prohibited sexual misconduct, the Title IX Coordinator will send the parties a written Notice of Allegation by College email. The Notice of Allegation will contain a summary of the allegation(s) under the Policy. Once the Notice of Allegation has been delivered to the parties, the investigation phase begins. The College will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview. Upon receipt of the Notice of Allegation, or at any stage in the process, the Respondent may choose to accept responsibility for all or part of the alleged Policy violation(s). If the Respondent admits responsibility for alleged misconduct, the matter is referred directly to the Deputy Title IX Coordinator, who will make a determination that the Respondent is in violation of the Policy and determine appropriate sanctions.

B. Ongoing Notice: If, in the course of an investigation, additional allegations of prohibited sexual misconduct which were not included in the Notice of Allegations are reported, the Title IX Coordinator will notify the parties in writing of the additional allegations. The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional allegations is conducted.

**3. Interviews:** The Title IX Coordinator shall assign the case to an Investigator(s). 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[24], and collect any other evidence deemed relevant to the case to summarize in an investigation report. All witnesses interviewed during the course of an investigation will be offered the opportunity to review the typed interview summary, note any corrections they may have, and sign the interview statement. Preliminary and follow-up interviews will be conducted as appropriate. The Investigator or Title IX Coordinator will provide the parties with written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

**4. Critical Witnesses:** The Title IX Coordinator may identify a student as a Critical Witness if the student may have information critical to the outcome of an investigation. A Critical Witness 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)."

**5. Evidence Review:** Prior to the completion of the investigation report, the Title IX Coordinator will provide access to evidence obtained as part of the investigation to both parties (and the party's advisor, if any, upon a party's signed information release for their advisor of choice) through an electronic format. The parties will have an equal opportunity to inspect and review the evidence and meaningfully respond to the evidence prior to conclusion of the investigation. All parties must submit any evidence they would like the Investigator to consider prior to the date the evidence is shared with the parties.[25]

Evidence that will be available for inspection and review will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

1. evidence that is relevant, even if that evidence does not end up being relied upon by the College in making a determination regarding responsibility;
2. inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

Both parties will have ten (10) calendar days to review the evidence and submit a written response citing any further information, evidence or witnesses that they would like considered. All responses to the evidence must be submitted by the party via College email to the Investigator. Advisors are not permitted to submit written responses to the evidence on their own or on behalf of the party they are advising. The Investigator will consider all timely responses submitted by the parties before completing the investigative report. The Title IX Coordinator will provide copies of the parties' written responses (if any) to the opposing party and their advisor prior to the meeting with the assigned Deputy Title IX Coordinator to give them the opportunity to refer to such evidence during the meeting.

**6. Preliminary Investigative Report:** The Investigator will complete a preliminary investigative report (hereafter "report"). The report will outline each of the allegations that potentially constitute prohibited conduct under this Policy, provide the timeline (e.g. procedural steps) of the investigation, and fairly summarize relevant evidence. This report is not intended to catalog all evidence obtained by the Investigator, but only to provide a fair summary of that evidence.

[24] If the Complainant or Respondent does not respond to the Investigator within10 business days of the Investigator's initial outreach the investigation will nonetheless proceed in his or her absence.
[25] *See*, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

Only relevant evidence (i.e. tending to prove and disprove the allegations, including both inculpatory and exculpatory evidence) will be referenced in the report. Evidence obtained in the investigation that is not relevant, but is directly related to the allegations in the Formal Complaint will be included in the appendices of the report. The Investigator may redact irrelevant information when that information is contained in documents or evidence that are otherwise relevant.[26]

The Title IX Coordinator will provide the preliminary investigative report concurrently to both parties, each party's advisor, if any, and the Deputy Title IX Coordinator at least ten (10) calendar days prior to the date of the meeting with the Deputy Title IX Coordinator.

**7. Meeting with the Deputy Title IX Coordinator:** The Deputy Title IX Coordinator (hereafter "Deputy Coordinator") will invite each party to participate in a separate meeting. The purpose of the meeting is to discuss the evidence that will be used by the Deputy Coordinator to reach a Determination Regarding Responsibility and to allow the parties the opportunity to respond to the investigative report. The parties may decline to participate in this meeting. The parties will have five (5) business days from meeting with the Deputy Coordinator to provide a written response to the Deputy Coordinator.

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, or if fact finding is complete. Any new information that is relevant to the outcome of the investigation will be shared with the Complainant and the Respondent.

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

**8. Determination Regarding Responsibility**: Once fact finding is complete, the parties will be notified by the Title IX Coordinator and the preliminary investigative report will become final. The Deputy Coordinator will then make a determination as to whether the Policy has been violated.

If there are no extenuating circumstances, the Deputy Coordinator will render a written decision ("Determination Regarding Responsibility") within ten (10) business days after fact finding is complete. The Determination Regarding Responsibility will be issued simultaneously to all parties by College email. The Title IX Coordinator and the Appeals Officer shall be copied on all outcome notices.

The Determination Regarding Responsibility will include:

1. Identification of the allegations potentially constituting prohibited sexual misconduct;
2. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence;
3. Findings of fact supporting the determination;
4. Conclusions regarding which section of the Policy, if any, the Respondent has or has not violated.
5. For each allegation:
    a. A statement of, and rationale for, a determination regarding responsibility;
    b. A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the Respondent (See *Sanctions Article XII, below*).; and
    c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Complainant; and

[26] *See*, 85 Fed. Reg. 30026, 30304 (May 19, 2020).

6. The College's procedures and the permitted reasons for the Complainant and Respondent to appeal.

The Determination Regarding Responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

**I. Appeals**

Either party may appeal in writing to the Appeals Officer:

- the College's dismissal of a Formal Complaint (or any allegations in the Formal Complaint),
- all determinations, including not responsible findings.

Appeals are not heard in person; instead all requests for appeal must be submitted in writing to the Appeals Officer within five (5) business days from the date on the letter notifying the parties of the original determination or dismissal. Failure to appeal within the allotted time will render the original decision final.

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) Procedural irregularity that affected the outcome of the matter;
3) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
4) The Title IX Coordinator, Investigator(s), or Hearing Chair/Officers had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

The fact that one of the parties disagrees with the finding or sanction does not constitute grounds for appeal. Although a Complainant may appeal on the ground that the remedies are not designed to restore or preserve the Complainant's access to the College's education program or activity, a Complainant is not entitled to a particular sanction against the Respondent.

The Title IX Coordinator will send the parties a written Notice of Appeal when an appeal is submitted, and both parties will have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

If the Appeals Officer finds no grounds for an appeal, then the decision will become final. There is no further appeal within the College.

If the Appeals Officer 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 Chief Equity and Diversity Officer (or designee) is final. There is no further appeal within the College.

The Appeals Officer will issue a written decision describing the result of the appeal and the rationale for the result within ten (10) business days from the date the appeal is received. The decision will be sent to the parties simultaneously and in writing by College email. The Title IX Coordinator and Deputy Coordinator shall be copied on all outcome notices. The Director of Human Resources shall be copied on all outcome notices for employee Respondents.

Supportive measures will remain in place during the appeal process.

**J. 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 after the Notice of Allegation has been issued. 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.

## XII. SANCTIONS

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 (students) or employee personnel file (employees).

### A. Possible Sanctions and Remedies for Student Respondents

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.

Possible Sanction(s) for Domestic Violence, Dating Violence, Sexual Harassment, Sexual Exploitation, Stalking, Retaliation, Sexual Assault and other Sexual Misconduct (excluding Rape or Sexual Assault: Non-Consensual Sexual Intercourse) may include:

1. **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.
2. **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
3. **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.
4. **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.

5. **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.
6. **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.
7. **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.
8. **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.
9. **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.
10. **Community Restitution:** The assignment of imposed service hours and/or participation in educational programs or projects. Students who are found responsible for violations which involve alcohol/drug use and/or abuse, or who otherwise engage in behavior associated with alcohol/drug use and/or abuse, may be required to attend programs intended to inform them about alcohol/drug use and/or abuse.
11. **Mental Health Consultation**: A student may be required to participate in a mental health consultation through the Center for Health and Counseling. Students are strongly encouraged to follow the recommendation of the mental health practitioner.
12. **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.

<u>Recommended Sanctions for Rape or Sexual Assault: Non-Consensual Sexual Intercourse</u>

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.[27] OR

[27] 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.

**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).

**B. Possible Sanctions and Remedies for Employee Respondents**

Possible Sanction(s) for Sexual Misconduct may include:

1. Warning: Notice to the Respondent, orally, or in writing, that continuation or repetition of the conduct found wrongful, within a period of time stated in the warning, may be cause for disciplinary action.
2. Reprimand: Written notice to the Respondent for violation of specified regulations, including the possibility of a more severe disciplinary sanction in the event of future decisions that the offender violated any College policies.
3. Employment probation.
4. Suspension with or without pay for a specific period of time.
5. Termination or dismissal.
6. Other Sanctions: The College may recommend other sanctions as may be reasonable and appropriate in a particular case up to and including removal. Examples include:
    A. Referral for training;
    B. Referral for counseling;
    C. Job demotion or reassignment;
    D. Ineligible for rehire; and/or
    E. Other sanction(s) or remedies as deemed appropriate under the circumstances.

## XIII. COLLEGE ALCOHOL & DRUGS AMNESTY

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.

## XIV. RECORDKEEPING

The College will retain all sexual harassment and sexual misconduct records 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 report (or the Determination Regarding Responsibility, if applicable) 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.

All sexual harassment and sexual misconduct records are protected in accordance with current guidelines established under FERPA and the New Jersey Open Public Records Act (OPRA). Generally, in accordance with these laws, the record of most disciplinary proceedings' findings are not available to the public. The Clery Act prohibits institutions from releasing personally identifiable information regarding the Complainant of a crime of violence or a sexual assault (as defined as rape, fondling, incest or statutory rape.) Nothing contained in FERPA, the Clery Act or Title IX prohibits the College 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 Complainant of a crime of violence or sexual assault to sign a non-disclosure agreement nor cooperate with law enforcement without his or her consent.

## XV. NON-RETALIATION

Retaliation, as defined in Section IV ("Definitions"), occurs when any materially adverse action is taken because of a person's participation in a protected activity, such as reporting an incident that may implicate 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 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. 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 Director of Employment Equity and Affirmative Action at (201) 684-7540.*

## XVI. REVOCATION BY OPERATION OF LAW

Should any portion of the Title IX Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified to not require the elements of this Policy, this Policy, or the invalidated elements of this Policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by that date of opinion or order publication.

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

*For more information about the Office of Title IX please visit: www.ramapo.edu/titleix*

# APPENDIX A. RESOURCE DIRECTORY

## A. On-Campus Resources

| Type of Resource | Office on Campus | Location | Telephone |
|---|---|---|---|
| **Health/Medical Treatment** | Health Services* | Near South Gate entrance | (201) 684-7536 |
| **Mental Health** | Counseling Services*[28] | D-216 | (201) 684-7522 |
| **Legal Assistance** | *Refer to "Off Campus Resources" Below* | | |
| **Advocacy and Education** | Women's Center | C-214 | (201) 684-7468 |
| **Assistance with Financial Aid** | Financial Aid | E-210 | (201) 684-7549 |
| **Assistance with Visa & Immigration** | Office of International Student and Scholar Services | C-213 | (201) 684-7533 |
| **Title IX Coordinator** | Equity, Diversity, Inclusion & Compliance | D-104 | (201) 684-7220 |
| **Public Safety** | Public Safety Department | C-102 | (201) 684-6666 |
| **Prevention Education Coordinator** | Office of Violence Prevention | C-216 | (201) 684-7430 |
| **Employee Advisory Service** | Remote | Remote | Please contact Dr. Kahn:<br>Telephone:<br>(888) 291-1524 or<br>(973) 761-5303<br>Email:<br>drmjkahn1@gmail.com |

*** 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

| Type of Resource | Off Campus Provider | Contact Information |
|---|---|---|
| **Health/Medical Treatment** | Planned Parenthood - Hackensack Center<br><br>Valley Hospital, Ridgewood New Jersey | (201) 489-1140<br><br>(201) 447-8000 |
| **Mental Health** | Bergen County Division of Mental Health Services<br><br>Bergen Regional Medical Center | (201) 634-2745<br><br>1 (800) 730-2762 |
| **Legal Assistance** | Bergen County Prosecutor's Office | (201) 646-2300 |

[28] Please request to speak with a **confidential** Counselor.

| | | |
|---|---|---|
| | Bergen County Bar Association<br><br>Bergen County Victim Witness Advocacy Unit<br><br>Department of Justice | (201) 488-0044<br><br>(201) 646-2057<br><br>ovw.usdoj.gov/sexassault.htm |
| **Complainant Advocacy and Resources** | YWCA Northern New Jersey healingSPACE Sexual Violence Resource Center<br><br>Alternatives to Domestic Violence<br><br>Rape, Abuse and Incest National Network | (201) 487-2227<br><br>(201) 336-7575<br><br>www.rainn.org |
| **Counseling** | Bergen County Div. of Mental Health Services | (201) 634-2745 |
| **Assistance with Financial Aid** | Free Application for Federal Student Aid (FAFSA) | https://fafsa.ed.gov/ |
| **Assistance with Visa & Immigration** | U.S. Department of State, Bureau of Consular Affairs<br>Nonimmigrant Visa inquiries<br>Immigrant Visa inquiries | <br><br>202-485-7600<br>603-334-0700 |
| **Local Law Enforcement** | Mahwah Police Department | (201) 529-1000 |
| **State Law Enforcement** | New Jersey State Police | (973) 344-1704 |
| **Where to obtain a Restraining Order** | 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

C. **YWCA Nothern New Jersey healingSPACE Mobile App**

The YWCA Northern New Jersey healingSPACE Sexual Violence Resource Center (hereafter "healingSPACE") is a safe, welcoming place for survivors of sexual assault/abuse and their families and friends. healingSPACE 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. healingSPACE has a mobile app that connects users directly to the healingSPACE. The mobile app 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 app also allows users to connect with friends through preprogrammed text messages. The mobile app is free and downloadable from the App Store and Google Play (search for "ywhealingspace").

# APPENDIX B. RESTRAINING ORDERS

***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 the victim:

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

# APPENDIX C. RISK REDUCTION

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[29]:

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.

[29] 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.

# APPENDIX D. EDUCATION AND PREVENTION

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 include, but are not limited to:

- 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 Act 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 Complainants 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.

**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."[30] 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[31] of some ways to be an active bystander. If you or someone else is in immediate danger, or if a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt, please dial 911.

1. Watch out for your friends and fellow students. If you see someone who looks like they could be in trouble or needs help, ask if they are 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 (OVP) houses initiatives that promote awareness to the realities of dating violence, sexual assault, stalking and other forms of interpersonal violence. The office serves as the nerve center for violence prevention education at Ramapo College and works closely with students, faculty, staff and community partners who share Ramapo's commitment to the eradication of gender-based violence. The programs facilitated by OVP provide evidence-based literacy and training through innovative prevention strategies in an effort to create a community that fosters a culture of respect, affirmative consent and encourages bystander intervention. The office also houses the Violence Intervention Prevention (VIP) Peer Educators who teach their peers and others about sexual violence and affirmative consent.

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

[30] Burn, S.M. (2009). A situational model of sexual assault prevention through bystander intervention. *Sex Roles, 60,* 779-792.
[31] Bystander intervention strategies adapted from Stanford University's Office of Sexual Assault & Relationship Abuse.

# APPENDIX E. NEW JERSEY CAMPUS SEXUAL ASSAULT VICTIM'S BILL OF RIGHTS

Pursuant to N.J.S.A. 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

# APPENDIX F. SEXUAL ASSAULT SURVIVOR INTAKE RESOURCE FORM (SAMPLE)

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 and collect evidence for save in the event of future 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 Director of Title IX to ensure that I have access to the requested resources.

**Please indicate the nature of the sexual assault** (check all that apply):
☐ Acquaintance/Date Rape ☐ Intimate Partner Assault ☐ Incest ☐ Unknown/Stranger Assault ☐ Other

_____ _____ _____
Ramapo College of New Jersey Student Signature Print Name Date

_____ _____ _____
Ramapo College of New Jersey Personnel Signature Print Name Date

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

*For more information about the Office of Title IX please visit: www.ramapo.edu/titleix*