

## **The Rockefeller University Interim Policy for Allegations of Sexual Misconduct Concerning a Student (Policy Under Title IX and NY Education Law Art. 129-B)**

*To the extent that this Policy overlaps with the University's Non-Discrimination, Anti-Harassment, and Anti-Retaliation Policy, this Policy will control in cases involving sex discrimination, sexual harassment, sexual violence, relationship violence, sexual assault, and/or stalking involving a student.<sup>1</sup>*

### **Policy Statement**

The Rockefeller University (the "University", "Institution") is committed to maintaining an educational environment that is free from sex discrimination, sexual harassment, sexual violence, relationship violence, and stalking. The University does not discriminate on the basis of sex in its education programs and activities, in compliance with the law, including Title IX of the U.S. Education Amendments of 1972 and Article 129-B of the N.Y. Education Law. The University strongly encourages any member of our community who is a victim of, or has knowledge of, sex discrimination, sexual harassment, sexual violence, relationship violence, and/or stalking involving a student to report that conduct as set forth below.

### **Purpose of this Policy**

The purpose of this policy is to delineate the policies and procedures complying with Title IX of the Educational Amendments of 1972, ("Title IX") and Sections 6439-6449 of Article 129-B of the New York Education Law ("129-B").

- A. **Title IX:** Title IX is a federal law that prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access our educational programs and opportunities.

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972 that:

- Defines the meaning of "sexual harassment" (including forms of sex-based violence)
- Addresses how this institution **must** respond to reports of misconduct falling within that definition of sexual harassment, and
- Mandates a grievance process that this institution **must** follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of sexual harassment.

- B. **Article 129-B:** Article 129-B is a New York State Law, which affords protections for students who are the victims of sexual assault, relationship violence, and stalking, including the right to report the incident to the University or law enforcement, to be protected by the University from retaliation for reporting an incident, and to receive assistance and resources from the University.

### **INDIVIDUALS AND CONDUCT COVERED**

Title IX and Article 129-B of the New York Education Law address similar concerns, although they may differ in some respects. Where there is a conflict of laws, federal law pre-empts state law. Where there is an omission in federal law that is addressed in state law, the university takes the position that state law prevails.

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<sup>1</sup> This policy may be applied when the complainant is an employee in certain, limited circumstances.

This Policy covers any occurrence of sex discrimination, sexual harassment, sexual violence, relationship violence, and/or stalking involving a student, regardless of whether the accused is a student, employee, or third party, or whether the prohibited conduct occurred on or off campus (including studying abroad). The University must address reported sex discrimination, sexual harassment, sexual violence, relationship violence, or stalking involving a student whether the report (oral or written) is made by the alleged victim or a reporting individual other than the alleged victim.

The University also must ensure that a student who is the victim of sexual violence, relationship violence, and/or stalking is afforded the protections outlined in the Students' Bill of Rights Relating to Sexual Violence, Relationship Violence, and/or Stalking, including the right to make a report to local law enforcement and to be protected from retaliation. (See Bill of Rights at the end of this Policy.)

### **How does this Policy impact other University disciplinary policies?**

The University remains committed to addressing violations to any of its policies. To the extent that alleged misconduct falls outside this policy or is discovered in the course of investigating misconduct covered under this policy, the University retains authority to investigate and adjudicate the allegations under the applicable policies and procedures including through a separate grievance proceeding. The elements established in this Policy have no effect and are not transferable to any other University policy for any violation of the Code of Conduct, employment policies, or any civil rights violation except as narrowly defined in this Policy. This Policy does not set a precedent for other University policies or processes and may not be cited for or against any right or aspect of any other policy or process.

## **The Title IX and Art. 129-B Grievance Policy**

### **General Rules of Application**

#### **Effective Date**

This Grievance Policy is effective as of August 14, 2020 and only applies to sexual misconduct alleged to have occurred on or after August 14, 2020. Incidents of sexual misconduct alleged to have occurred before August 14, 2020, will be investigated, and adjudicated according to the policy in effect at the time the incident allegedly occurred.

#### **Non-Discrimination in Application**

The requirements and protections of this policy apply equally regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, criminal conviction, 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, Respondent, or Witness. Individuals who wish to file a complaint about the University's policy or process may contact the Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

### **DEFINITIONS**

**Affirmative Consent ("Consent")** is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance in and of itself does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. Consent may be given initially but withdrawn at any time, and consent to one sexual act does not necessarily constitute consent to any other sexual act. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs or other intoxicants may be incapacitated and therefore unable to consent. Consent cannot be given by a person who is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity, and consent

cannot be given when it is the result of any coercion. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. When consent is withdrawn or can no longer be given, sexual activity must stop.

**Bystander** means a person who observes a crime, impending crime, conflict, potentially violent behavior, or conduct that is in violation of rules or policies of an institution.

**Code of Conduct** includes written policies adopted by the University governing student behavior, rights, and responsibilities, while such student is affiliated with the University.

**Complainant** is any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment as defined under this policy. A complainant may also be referred to as a **Reporting Individual** under Article 129-B.

**Covered Sexual Harassment** includes any conduct on the basis of sex that satisfies one or more of the following criteria:

1. An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);
2. 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 educational institution's education program or activity;
3. Sexual assault includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent;
4. Dating violence is also known as relationship violence and includes 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.
5. Domestic violence is also considered relationship violence and includes 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 York 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 York.
6. **Sex Discrimination** is conduct towards an individual, based upon that individual's sex, or gender (including sexual orientation, self-identified or perceived sex; gender expression, gender identity; status of being transgender, status as victim of domestic violence sexual violence, or stalking; sexual and reproductive health decisions; and pregnancy), that denies the individual the benefits of, treats the individual differently, or otherwise adversely affects a term or condition of an individual's employment, education, living environment, or participation in a University program or activity.
7. **Sexual Violence** or sexual assault is an actual or attempted physical sexual act performed against a person's will or without a person's affirmative consent, including where the person is incapable of giving consent due to a disability or the use of drugs and/or alcohol.
8. Stalking means 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.

Note that conduct that does not meet one or more of these criteria may still be prohibited under other University Policies.

**Education Program or Activity<sup>2</sup>** includes:

- Any on-campus premises.
- Any off-campus premises that the University has substantial control over. This includes buildings or property owned or controlled by a recognized student organization.
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the University’s programs and activities over which the University has substantial control.

**Formal Complaint** means a document—including an electronic submission—filed by a complainant with a signature or other indication that the complainant is the person filing the formal complaint, or signed by the Title IX Coordinator, alleging sexual harassment against a respondent about conduct within the Rockefeller University’s education program or activity as defined herein and requesting initiation of the procedures consistent with the Title IX Grievance Policy to investigate the allegation of sexual harassment.

**Relationship Violence**, including dating violence and domestic violence, is a pattern of behavior in which an individual uses physical violence, coercion, threats, intimidation, isolation, or other forms of emotional, sexual, verbal, and/or economic abuse to control their current or former intimate partner

**Relevant evidence and questions** refer to any questions and evidence that tends to make an allegation of covered sexual harassment more or less likely to be true. Relevant evidence and questions do not include the following types of evidence and questions, which are deemed “irrelevant” at all stages of the Title IX and 129-B Grievance Process:

- Evidence and questions about the complainant’s sexual predisposition or prior sexual behavior unless:
  - They are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
  - They concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent.
- Evidence and questions that constitute, or seek disclosure of, information protected under a legally recognized privilege (i.e.: attorney/client or physician/patient privilege.)
- Any party’s medical, psychological, and similar records unless the party has given voluntary, written consent.

**Respondent** means any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual harassment as defined under this policy.

**Supportive Measures** are non-disciplinary and non-punitive accommodations for the benefit of a complainant that are made without unreasonably burdening the other party.<sup>3</sup>

### **Disability Accommodations**

This Policy does not alter any University obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Process that do not fundamentally alter the Process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other university programs and activities.

### **Reporting a Violation of this Policy**

Any person may report a violation of this policy (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment) to any of the individuals listed in

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<sup>2</sup> Pursuant to Article 129-B of the New York State Education Law, the University may apply this policy to a violation that occurs off campus or while studying abroad.

<sup>3</sup> See “Non-Investigatory Measures Available Under Title IX and Article 129-B Grievance Policy” of this policy.

below including the Title IX Coordinator, Officials with Authority to take Corrective Action, Campus security, local law enforcement and/or state police. Reports may also be made in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.<sup>4</sup>

**The Rockefeller University has designated as its Title IX Coordinator:**

- Virginia Huffman, Vice President, Human Resources.  
Founders Hall, Room 103  
1230 York Avenue  
New York, NY 10065  
tel:212-327-7261.  
email: [huffman@rockefeller.edu](mailto:huffman@rockefeller.edu).

**Officials with Authority to Take Corrective Action and Receive a Title IX Complaint Include**

- James K. Rogers, Director of Security  
Nurses Residence, 1<sup>st</sup> Floor  
1230 York Avenue  
New York, NY 10065  
Tel: (212) 327-7339  
Email: [jrogers@rockefeller.edu](mailto:jrogers@rockefeller.edu)
- Department Heads of the Dean's Office, Human Resources, Office of General Counsel, Housing, and Security, and Executive Officers of the University.
- Emily Harms, Senior Associate Dean; Andrea Morris, Director of Career and Professional Development; Marta Delgado, Director, Graduate Program Administrator of Finances and Student Affairs; and Kristen Cullen, Graduate Admissions Administrator and Registrar, Michelle Keenan, Director Of Employment, Kimberly Preston, Director of HR Compliance.

Please note that reports made to the above individuals will be forwarded to the Title IX Coordinator. Accordingly, the above individuals cannot guarantee confidentiality but will maintain privacy to the greatest extent possible.

**Privacy vs. Confidentiality**

The University wants victims and bystanders of sexual violence to have the necessary information and support regardless of whether they choose to report sexual violence to security or to law enforcement. References made to *confidentiality* refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or University officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to *privacy* mean university offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. The University will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored. Privacy will be maintained throughout the investigation of a complaint or report of sex discrimination, sexual harassment, sexual violence, relationship violence, and/or stalking, consistent with reasonable investigation and appropriate corrective action. Certain University personnel (including officials with authority), because of their duty to report conduct prohibited under this Policy to the Title IX Coordinator or take action to redress such conduct, cannot guarantee confidentiality but will maintain the privacy of the complainant or

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<sup>4</sup> A reported violation of this policy does not of itself necessitate an investigation. See, "The Grievance Process" for requirements of an investigation.

reporting individual, to the greatest extent possible. These University personnel will share a complaint or report only as necessary for the Title IX Coordinator to investigate and/or seek a resolution and, if required, with law enforcement.

If an individual complainant wishes to keep their identity anonymous, they can use a **confidential resource**. Confidential resources can and will maintain the confidentiality of information provided to them by a complainant, accused, or reporting individual. The following individuals may provide confidentiality: licensed mental health counselors, advocates, and health care professionals, including those at the University's Occupational Health Services. These confidential resources are not required or permitted to disclose any identifying information regarding an incident under this Policy to any outside party, including other individuals at the University, unless the person who provided information to them has consented to disclosure or extreme circumstances as listed above. If the accused is a University employee, the complainant may notify a member of the University's Human Resources and/or has the right to request that a confidential resource assist in reporting to the Title IX Coordinator.

### **Confidential Resources:**

Confidential Resources are available through Occupational Health Services, ("OHS"), which is located at The Hospital Room 118 and can be contacted by phone at: (212) 327-8414. Confidential OHS Resources are:

- Janica Barnett, Director, OHS  
email: Janica.Barnett@rockefeller.edu
- Ann Campbell, Adult Nurse Practitioner, OHS  
email: ann.campbell@rockefeller.edu
- Dr. Nisha Mehta-Naik, Psychiatrist
- Lauren Rosenblum, LCSW

Nisha and Lauren provide on-site/telehealth confidential counseling and medical services to employees and students. To schedule a confidential appointment with either Nisha or Lauren, please call OHS at (212) 327-8414.

### **Outside Confidential Resources:**

If an individual prefers to make an anonymous report and/or speak with someone not affiliated with the University, the below hotlines are completely confidential and available at all times (24 hours/7 days per week):

- New York State Domestic and Sexual Violence Hotline: 800-942-6906, or <http://www.opdv.ny.gov/help/dvhotlines.html>. Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages: <http://www.opdv.ny.gov/help/index.html>.
- New York State Office of Victim's Services: 800-247-8035 or [www.ovs.ny.gov](http://www.ovs.ny.gov);
- Victim Intervention Program at New York Presbyterian Hospital Weill-Cornell Medical Center: (212) 746-9414 or <https://www.nyp.org/social-work/victim-intervention-program>.
- Safe Horizon's Rape/Sexual Assault and Domestic Violence Hotline: 800-621-HOPE (4673).

### **Reports Made with Requests Not to Act:**

A complainant may request (1) that their name not be revealed to the accused, and/or that the University does not investigate or take action. The University will strongly support such a request, although honoring the request may limit the University's ability to investigate and respond fully to the incident. The Title IX Coordinator will determine whether the University can honor a request for confidentiality by a complainant or a reporting individual while still providing a safe and nondiscriminatory environment for all students. A request not to investigate or take action may not be honored if such action might put other individuals at risk. Factors to consider in determining whether to honor a request include whether: (a) the accused has a history of violent behavior or is a repeat offender; (b) the incident represents an escalation in unlawful conduct on behalf of the accused from previously noted behavior; (c)

there is an increased risk that the accused will commit additional acts of violence; (d) the accused used a weapon or force; (e) the reporting individual is a minor; and (f) the University has other means to obtain evidence such as security footage, and (g) that information reveals a pattern of perpetration at a given location or by a particular group. If the University determines that an investigation is required, it will notify the complainant and take immediate action as necessary to protect or assist the complainant.

### **Non-Investigatory Measures Available Under Policy**

#### **Supportive Measures**

Complainants (as defined above), who report allegations that could constitute covered sexual harassment under this policy, have the right to receive supportive measures from the University regardless of whether they desire to file a complaint. Supportive measures are non-disciplinary and non-punitive. They may be made available free of charge and kept confidential except as necessary to facilitate the supportive measure. Supportive measures may include, but not be limited to:

- Counseling
- Extensions of deadlines or other course/resource-related adjustments
- Modifications of work or class schedules
- Campus security escort services
- Restrictions on contact between the parties (no contact orders)
- Changes in work or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus

#### **Emergency Removal**

The Rockefeller University retains the authority to remove a respondent from the University's program or activity on an emergency basis, when the University: (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 of covered sexual harassment justifies a removal. If the University determines such removal is necessary, the respondent will be provided notice and an opportunity to challenge the decision immediately following the removal. The University may remove a respondent on an emergency basis whether the grievance process is underway or not.

#### **Administrative Leave**

The Rockefeller University retains the authority to place a non-student employee respondent on administrative leave during this policy's grievance process.

### **The Grievance Process**

#### **Filing a Formal Complaint**

The timeframe for the Title IX Grievance Process begins with the filing of a Formal Complaint. The Grievance Process will be concluded within a reasonably prompt manner, and no longer than ninety (90) calendar days after the filing of the Formal Complaint, provided that the Process may be extended for a good reason, including but not limited to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The procedure for applying for extensions is described below.

To file a Formal Complaint, a complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of the University, including as an employee.

If a complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. The University will inform the complainant of this decision in writing, and the complainant need not participate in the process further but will receive all notices issued under this Policy and Process. Nothing in this Policy prevents a complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

### **Informal Resolution**

A complainant who files a Formal Complaint may elect, at any time, to address the matter through the University's Informal Resolution Process. All Parties to a Formal Complaint must agree to enter the Informal Resolution Process through an informed written consent. Please refer to the policy entitled, "Informal Resolution Process," for more information.

### **Multi-Institutional**

When the reported misconduct involves students or employees of another institution(s), the University may work collaboratively with the other institution(s) to address the misconduct provided that such collaboration complies federal and state law.

### **Multi-Party Situations**

The University may consolidate Formal Complaints alleging covered sexual harassment 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 harassment arise out of the same facts or circumstances.

### **Allegations Potentially Falling Under Two Policies:**

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied to investigation and adjudication of only the allegations that constitute covered sexual harassment. Conduct that would not constitute covered sexual harassment under this policy will be addressed in accordance the corresponding University policy concerning such misconduct.

### **Determining Jurisdiction**

The Title IX Coordinator will determine if the instant Title IX Grievance Process should apply to a Formal Complaint. The Process will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator:

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The conduct is alleged to have occurred in the United States.
3. The conduct occurred while a student was studying abroad under §129-B of the N.Y. Educational Law.
4. The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.

If all of the elements are met, The University will investigate the allegations according to the Grievance Process.

### **Mandatory Dismissal**

If any one of these elements are not met, the Title IX Coordinator, will notify the parties that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Policy. Each party may appeal this dismissal using the procedure outlined in "Appeals," below.

### **Discretionary Dismissal**

The Title IX Coordinator, may dismiss a Formal Complaint brought under the Title IX Grievance Policy, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint, or any allegations raised in the Formal Complaint.
- The respondent is no longer enrolled or employed by the University; or,

- If specific circumstances prevent the University from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

Any party may appeal a dismissal determination using the process set forth in “Appeals,” below.

### **Notice of Dismissal**

Upon reaching a decision that the Formal Complaint will be dismissed, the University will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties through their university email accounts. It is the responsibility of parties to maintain and regularly check their email accounts.

### **Notice of Removal**

Upon dismissal for the purposes of Title IX and 129-B, the University retains discretion to determine if a violation of any other University Policy has occurred. If so, the University will promptly send written notice of the dismissal of the Formal Complaint under this Policy’s Grievance Process and removal of the allegations concerning misconduct under the other University Policy.

### **Notice of Allegations**

The Title IX Coordinator will draft and provide the Notice of Allegations to any party to the allegations of sexual harassment. Such notice will occur as soon as practicable, after the University receives a Formal Complaint of the allegations if there are no extenuating circumstances. The parties will be notified by their university email accounts or other reasonable means if they are a student or employee, and by other reasonable means if they are neither. The University will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

The Title IX Coordinator may determine that the Formal Complaint must be dismissed on the mandatory grounds identified above and will issue a Notice of Dismissal. If such a determination is made, any party to the allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Dismissal in conjunction with, or in separate correspondence after, the Notice of Allegations.

### **Contents of Notice**

The Notice of Allegations will include the following:

- Notice of the University’s Title IX and 129-B Grievance Process and a hyperlink to a copy of the process.
- Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source.
- A statement that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

### **Ongoing Notice**

If, in the course of an investigation, the University decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations and are otherwise covered “sexual harassment” falling within the Title IX Grievance Policy, the University will notify the parties whose identities are known of the additional allegations by their university email accounts or other reasonable means. The parties will be provided

sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

### **Advisor of Choice and Participation of Advisor of Choice**

The University will provide the parties equal access to advisors and support persons; any restrictions on advisor participation will be applied equally.

The University has a long-standing practice of requiring students to participate in the process directly and not through an advocate or representative. Students participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. The Advisor of Choice is not an advocate. Except where explicitly stated by this Policy, as consistent with the Final Rule, Advisors of Choice shall not participate directly in the process as per standard policy and practice of The Rockefeller University.

The University will not intentionally schedule meetings or hearings on dates where the Advisors of Choice for all parties are not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

The University's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other college policies apply to matters governed under this Policy, and the University cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee. The University will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor of Choice, and may offer the party the opportunity to obtain a different Advisor of Choice or utilize one provided by the University.

### **Notice of Meetings and Interviews**

The University will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

### **Delays**

Each party may request a one-time delay in the Grievance Process of up to five (5) days for good cause (granted or denied in the sole judgment of the Title IX Coordinator or designee provided that the requestor provides reasonable notice and the delay does not overly inconvenience other parties. For example, a request to take a five day pause made an hour before a hearing for which multiple parties and their advisors have traveled to and prepared for shall generally not be granted, while a request for a five day pause in the middle of investigation interviews to allow a party to obtain certain documentary evidence shall generally be granted. The Title IX Coordinator shall have sole judgment to grant further pauses in the Process.

## **Investigation**

### **General Rules of Investigations**

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute covered sexual harassment after issuing the Notice of Allegations.

The University and not the parties, has the burden of proof and the burden of gathering evidence, i.e., the responsibility of showing a violation of this Policy has 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 University and does not indicate responsibility. The University cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information. The Rockefeller University will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses,

and other inculpatory and exculpatory evidence, (i.e., evidence that tends to prove and disprove the allegations) as described below.

### **Inspection and Review of Evidence**

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

All parties must submit any evidence they would like included in the investigation prior to beginning of the inspection and review period. Evidence that will be available for inspection and review by the parties 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 University 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.

The University will send the evidence made available for each party and each party's advisor, if any, to inspect and review via electronic format. The University is not under any obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

The parties will have ten (10) calendar days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties' written responses before completing the Investigative Report.

The University will provide the parties up to ten (10) days to provide a response, after which the investigator will not be required to accept a late submission. Investigator has fifteen (15) calendar days to generate a report or, alternatively, may provide the parties with written notice extending the investigation for fifteen (15) calendar days and explaining the reason for the extension. Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination. The parties and their advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process. The parties and their advisors agree not to photograph or otherwise copy the evidence.

### **Inclusion of Evidence Not Directly Related to the Allegations:**

Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will not be disclosed, or may be appropriately redacted before the parties' inspection to avoid disclosure of personally identifiable information of a student. Any evidence obtained in the investigation that is kept from disclosure or appropriately redacted will be documented in a "privilege log" that may be reviewed by the parties and their advisors, if any.

### **Investigative Report**

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will create an Investigative Report that fairly summarizes relevant evidence, will and provide that Report to the parties at least ten (10) calendar days prior to the hearing in electronic format via email or hard copy if requested by a party in writing for each party's review and written response. The Investigative 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 (including both inculpatory and exculpatory—i.e., tending to prove and disprove the allegations—relevant evidence) will be referenced in the Investigative Report. The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant.

## Hearing

### **General Rules of Hearings**

The University will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing unless the complaint otherwise resolved through an informal resolution process. The live hearing may be conducted with all parties physically present in the same geographic location, or—at the University’s discretion—any or all parties, witnesses, and other participants may appear at the live hearing virtually through secure remote video conferencing as prescribed by the University. This technology will enable participants simultaneously to see and hear each other. At its discretion, the University may delay or adjourn a hearing based on technological errors not within a party’s control. All proceedings will be recorded through either audio recording or audiovisual recording. That recording will be made available to the parties for inspection and review. 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 Title IX Grievance Process. Once signed, this Agreement may not be withdrawn.

### **Continuances or Granting Extensions**

The University 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 University will notify all participants and endeavor to accommodate all participants’ schedules and complete the hearing as promptly as practicable.

### **Newly discovered Evidence**

As a general rule, no new evidence or witnesses may be submitted during the live hearing. If a party identifies new evidence or witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing. The Hearing Decision Maker will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.

If the Hearing Decision Maker answers in the affirmative to both questions, then the parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness.

### **Participants in the live hearing**

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

#### Complainant and Respondent (The Parties)

- The parties cannot waive the right to a live hearing.
- The University may still proceed with the live hearing in the absence of a party and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a “statement” by that party.
  - a) For example, A verbal or written statement constituting part or all of the sexual harassment itself is not a “prior statement” that must be excluded if the maker of the statement does not submit to cross-examination about that statement. In other words, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint.
- The University will not threaten, coerce, intimidate, or discriminate against the party in an attempt to secure the party’s participation.
- If a party does not submit to cross-examination, the Hearing Decision Maker cannot rely on any prior statements made by that party in reaching a determination regarding responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a “statement” by that party.

- The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross examination or other questions.

#### The Hearing Decision Maker

- A hearing body will consist of a single Hearing Decision Maker.
- No member of the hearing body will also have served as the Title IX Coordinator, Title IX investigator, or advisor to any party in the case, nor may any member of the hearing body serve on the appeals body in the case.
- No member of the hearing body will 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.
- The hearing body will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.
- The parties will have an opportunity to raise any objections regarding a Decision Maker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

#### Advisor of choice

- The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney.
- The advisor of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination.
- The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the University will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The advisor is not prohibited from having 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.
- The advisor is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf.
- If neither a party nor their advisor appear at the hearing, the University will provide an advisor to appear on behalf of the non-appearing party.

#### Witnesses

- Witnesses cannot be compelled to participate in the live hearing and have the right not to participate in the hearing free from retaliation.
- If a witness does not submit to cross-examination, as described below, the decision-maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing.
- Witnesses are expected to conduct themselves appropriately.

### **Hearing Procedures**

For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

- The **Hearing Decision Maker** will open and establish rules and expectations for the hearing.
- The Parties will each be given the opportunity to provide opening statements.
- The Hearing Decision Maker will ask questions of the Parties and Witnesses.
- Parties will be given the opportunity for live cross-examination after the Hearing Decision Maker conducts its initial round of questioning; During the Parties' cross-examination, Hearing Decision Maker will have the authority to pause cross-examination at any time for the purposes of asking Hearing Decision Maker own follow up questions; and any time necessary in order to enforce the established rules of decorum.

- Should a Party or the Party's 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 Decision Maker. A Party's waiver of cross-examination does not eliminate the ability of the Hearing Decision Maker to use statements made by the Party.

### **Live Cross-Examination Procedure**

Each party's advisor will conduct live cross-examination of the other party or parties and witnesses. During this live-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. Before any cross-examination question is answered, the Hearing Decision Maker will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by the Hearing Decision Maker may be deemed irrelevant if they have been asked and answered.

### **Review of Recording**

The recording of the hearing will be available for review by the parties within \_\_\_ calendar days unless there are any extenuating circumstances. The recording/transcript of the hearing will not be provided to parties or advisors of choice.

## **Determination Regarding Responsibility**

### **Standard of Proof**

The preponderance of the evidence standard will apply for investigations and determinations regarding responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Policy occurred.

### **General Considerations for Evaluating Testimony and Evidence**

While the opportunity for cross-examination is required in all Title IX-129B hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Hearing Decision Maker. Hearing Decision Maker's shall 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. Generally, credibility judgments 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. Decision makers 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. Both inculpatory and exculpatory (i.e., tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

### **Expert Witnesses, Character Witnesses and Polygraph Tests:**

While an expert witness will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to 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. While the character witnesses will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford very low weight to any non-factual character testimony of any witness. While the processes and testimony about polygraph tests ("lie detector tests") and other procedures that are outside of standard use in academic and non-academic conduct processes will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.

### **Adverse Inference**

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 Decision Maker may draw an adverse or negative inference as to that party or witness' credibility.

### **Components of the Determination Regarding Responsibility**

The written Determination Regarding Responsibility will be issued simultaneously to all parties through their university email account, or other reasonable means, as necessary. The Determination 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 University Policy/Code of Conduct, 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; and
  - c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
6. The recipient's procedures and the permitted reasons for the complainant and respondent to appeal (described below in "Appeal").

### **Timeline of Determination Regarding Responsibility**

If there are no extenuating circumstances, the determination regarding responsibility will be issued by the University within ten (10) calendar days of the completion of the hearing.

### **Finality**

The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined in "Appeals" below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

### **Appeals**

Each party may appeal (1) the dismissal of a formal complaint or any included allegations and/or (2) a determination regarding responsibility. To appeal, a party must submit their written appeal within five (5) calendar days of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution's own procedures);
- 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;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal. If a party appeals, the institution will as soon as practicable notify the other party in writing of the appeal, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Appeals may be no longer than ten (10) (including attachments). Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by an Appeals Panel who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decisionmaker in the same matter. The outcome of appeal will be provided in writing simultaneously to both parties and include rationale for the decision.

### **Retaliation**

The University will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Title IX Grievance Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under this Title IX Grievance Policy.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations. No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Title IX Grievance Policy.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment. Complaints alleging retaliation may be filed according to the University's sex discrimination procedures under this policy.

### **AMNESTY POLICY FOR ALCOHOL AND/OR DRUG USE BY REPORTING INDIVIDUALS**

The health and safety of every student at the University is of utmost importance. The University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, sexual assault, sexual violence, relationship violence, and/or stalking, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University strongly encourages students to report any of the above misconduct to University officials. A bystander or a complainant who acting in good faith reports or discloses any incident of sexual violence, relationship violence, and/or stalking to University officials or law enforcement will not be subject to disciplinary action for violation of the University's Substance Abuse Policy occurring at or near the time of the commission of the reported incident.

### **UNIVERSITY STUDENTS' BILL OF RIGHTS RELATING TO SEXUAL VIOLENCE, RELATIONSHIP VIOLENCE, AND/OR STALKING**

All University students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of sexual violence, including domestic violence, dating violence, stalking, and sexual assault, treated seriously;

3. Make a decision about whether or not to disclose a crime and/or violation and to participate in the University's investigation, hearing, and/or decision-making process and/or criminal justice process free from pressure by the University;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and receive from the University courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the complainant or reporting individual is at fault when these crimes and/or violations are committed, or should have acted in a different manner to avoid such crimes and/or violations;
7. Describe the incident to as few University representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the University, any University employee, personnel, and/or student; and/or the accused and/or their friends, family, and acquaintances within the jurisdiction of the University;
9. Have access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a complainant, reporting individual, or accused throughout the investigation, hearing, and/or decision-making process, including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigation, hearing, and/or decision-making process of the University.

Additional information and guidance concerning these rights and implementing procedures is set forth in the attached University's Guidelines and Implementing Procedures. Questions regarding Title IX may be referred to the University's Title IX Coordinator or to the Office for Civil Rights (OCR), U.S. Department of Health and Human Services.

## **GUIDELINES AND IMPLEMENTING PROCEDURES**

These guidelines and implementing procedures provide additional information and guidance concerning University students' rights and the University's procedure for responding to complaints or reports under the attached Policy, available resources, protections and accommodations, procedural rights, and sanctions.

### **Response to Complaints or Reports**

In addition to the rights set forth in the Policy, a bystander who reports or University student who has been a victim of sexual violence, relationship violence, and/or stalking has the right to:

- Notify University security and/or local law enforcement or state police about the incident;
- Have emergency access to the Title IX Coordinator (Virginia Huffman) and/or the Director of Security (James K. Rogers). Contact information for these individuals is as follows:

Virginia Huffman Title IX Coordinator Vice President, Human Resources	Founders Hall, Rm 103 Tel: 212-327-7261 Email: <a href="mailto:huffman@rockefeller.edu">huffman@rockefeller.edu</a>
James K. Rogers Director of Security	Nurses Residence, 1 <sup>st</sup> Floor Tel: 212-327-7339 Email: <a href="mailto:jrogers@rockefeller.edu">jrogers@rockefeller.edu</a>

These individuals are trained in interviewing victims of sexual assault and will offer information about a student's rights and options for proceeding, available resources, and assistance, and where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible. These individuals will explain that they can offer the student privacy, if not confidentiality, and will inform the student of other reporting options. They will also offer a student information and assistance with filing a report and will advise that the criminal justice process utilizes different standards of proof and evidence than the University's investigation process. Questions about whether a specific incident violated the State's criminal law should be addressed to law enforcement or the district attorney;

- File a report of sexual violence, relationship violence, and/or stalking with the University. Reports will be investigated in accordance with the Policy;
- Receive assistance from the Director of Security (James Rogers) or his designee in initiating legal proceedings in family court or civil court; and
- Request, at any time, the withdrawal of a complaint or further involvement with the University's investigation process.

The following information will be given to a reporting individual at the first instance of disclosure of sexual violence, relationship violence, and/or stalking:

You have the right to make a report to University Security, local law enforcement, and/or state police; or choose not to report; to report the incident to the University; to be protected by the University from retaliation for reporting an incident; and to receive assistance and resources from the University.

It should be noted that if an individual discloses information through a public awareness event, such as candlelight vigils, protests, or other public event, the University is not required to begin an investigation based on such information (unless requested to do so by the individual), although the University may use the information to inform its education and prevention efforts.

### **Resources Available to University Students**

It is important for a victim of sexual violence to seek immediate and appropriate medical assistance and treatment as needed. In the course of treatment, it is important to preserve evidence that may be necessary to prove the reported conduct occurred or to obtain an order of protection. The University's on-campus Occupational Health Service (OHS) is available free of charge to all University students.

- OHS is staffed by nurse practitioners and a certified occupational health nurse who offer confidential, basic medical advice, or first aid care when such treatment is necessary in advance of a student receiving private medical attention.
- OHS also has on-campus a Weill Cornell Medicine psychiatrist and a licensed clinical social worker who offers confidential counseling and help in finding appropriate mental health care providers within the University's healthcare networks.

OHS is open Monday through Friday, 9 a.m. to 5 p.m. and is located in The Rockefeller University Hospital, Room 118; tel: 212-327-8214. While OHS staff are unable to perform procedures related to the collection of evidence for the purpose of pursuing a criminal action, they can provide assistance and support when an individual requests or requires transportation to a full-service hospital.

The Employee Assistance Program, (EAP) is also available free of charge to all University students and employees. EAP, which is offered through The Standard, is a confidential, short term counseling and referral service that is equipped to provide various support services, including short term counseling, therapy, and crisis intervention. To reach the EAP directly, call (888) 293-6948 or text MSEAP to 53342, or visit [www.worklifehealth.com](http://www.worklifehealth.com).

In addition, across the street from the University is New York Presbyterian Hospital – Weill Cornell Medicine, which has a New York State-designated Sexual Assault Forensic Examiner (SAFE) Program and provides specialized care to victims of sexual assault or sexual violence.

To best preserve evidence, victims/survivors should avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed. Also, within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds.

More information may be found here: <https://ovs.ny.gov/sites/default/files/brochure/ovs-rights-cv> or by calling (800) 247-8035. Additional options are explained here: <https://ovs.ny.gov/help-crime-victims>.

Additional information about sexually transmitted infections, sexual assault forensic examinations, and resources available to victims of sexual violence may be found on the New York State Department of Health website at: [https://www.health.ny.gov/prevention/sexual\\_violence/](https://www.health.ny.gov/prevention/sexual_violence/); and by contacting The New York State Office of Victim Services: tel: 800-247-8035 or [www.ovs.ny.gov](http://www.ovs.ny.gov).

## **University Protections and Accommodations for Its Students**

The University may offer any of the following protections and accommodations, as appropriate, to a University student who has been a victim or accused of sexual violence, relationship violence, and/or stalking:

- **No Contact Order**: When the accused is a student, the University may issue and provide a copy of a “no contact order” to the victim and the accused whereby continued intentional contact with the victim would be a violation of University policy and thus, subject to additional disciplinary action. If the accused and victim observe each other in a public place, the accused will be responsible for leaving the area immediately and without directly contacting the victim.
- **Assistance Obtaining an Order of Protection**: A student may request that the University’s Director of Security or other appropriate University representative assist the student in obtaining a court order of protection and/or explain to the student the order and the consequences of violating the order. The University will provide to the student, a copy of the court order of protection when received by the University. University Security shall assist local law enforcement, if necessary, in effecting an arrest for violation of an order of protection.
- **Interim Sanctions**: When the accused is determined to present a continuing threat to the health and safety of the University community, the University may institute an interim suspension, as appropriate, pending

the outcome of the University's investigation or appeal process (or local law enforcement's investigation) and in accordance with other rules and policies of the University, including the University's Grievance Procedures and the Non-Discrimination, Anti-Harassment, and Anti-Retaliation Policy.

- Supportive Measures/Interim Accommodations: The University may provide reasonable and available interim measures and accommodations to the victim and/or the accused that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to help ensure safety, prevent retaliation, and avoid an ongoing hostile environment.

A University student who is a victim or an accused may (i) request any of the above protections or accommodations, (ii) request to be afforded a reasonably prompt review by the Title IX Coordinator or her designee of the need for and terms of any of the above protections or accommodations (even if the victim does not file or continue to pursue a complaint), including potential modification, and (iii) will be allowed to submit evidence in support or defense of the request. The Title IX Coordinator will be responsible for coordinating with appropriate offices on campus to implement appropriate measures.

### **Procedural Rights**

In addition to the procedural rights set forth in the Policy, a student who has been the victim of, or has been accused of, a violation of the Policy has a right to:

- Have access to a full and fair record of any hearing, and have the record be preserved for at least seven (7) years from the date of such a hearing;
- Have access to a fair and impartial appeal panel's review of the determination;
- Have the University's investigation or appeal process occur concurrently with a criminal justice investigation and proceeding if a criminal complaint was filed, except for temporary delays requested by local law enforcement to gather evidence;
- Exclude their own prior sexual history with persons other than the accused or their own mental health diagnosis and/or treatment from the University's investigation or appeal process. However, past findings of sexual assault, relationship violence, and/or stalking may be admissible in determining sanctions; and
- Choose whether to disclose or discuss the outcome of the University's investigation or appeal process, except that all information obtained during the course of the investigation or appeal process must be protected from public release until a final appellate determination has been made, unless otherwise required by law.

### **Sanctions**

Sanctions against an individual found to have violated the University's Policy may include, for example: training; referral to counseling; monitoring of the offender; warning or reprimand; suspension or expulsion (in the case of a student offender); or withholding of a promotion or pay increase, reduction of wages, demotion, reassignment, suspension, or termination (in the case of an employee offender).

For crimes of violence, including but not limited to sexual violence, the University will make a notation on the transcript of students found responsible for a violation pursuant to the University's investigation and appeal process that the student was "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation", as appropriate. For an accused who withdraws from the University while such conduct charges are pending, and declines to complete the investigation process, the

University will make a notation on the transcript of such students that they “withdrew with conduct charges pending.” Such notation will not be removed prior to one year after conclusion of the suspension, while notations for expulsion will not be removed. If a finding of a violation of University Policy is vacated for any reason, any such transcript notation will be removed.