STUDENT SEXUAL MISCONDUCT AND HARASSMENT POLICY

Student members of the University community have the right to access and benefit from the educational and other programs and services of the University free from any form of sexual violence, harassment or exploitation. Rowan University does not tolerate sexual misconduct or harassment of any kind. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. All members of the community are expected to conduct themselves in a manner that does not infringe upon the rights of others.

When an allegation of a violation of this policy is brought to the attention of the University, the University will investigate the violation to the best of its ability. The University will also take steps to bring the behavior that is in violation to an end, prevent further violations by the perpetrator(s), and, to the best of its ability, remedy any adverse impact of the violation.

The University reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct or harassment in order to protect students’ rights and the personal safety of members of the community. Such measures include, but are not limited to, modification of living arrangements or suspension of housing privileges, interim suspension from campus pending a hearing, and reporting to police. Not all forms of sexual misconduct will be deemed to be equally serious offenses, and the University reserves the right to impose differing sanctions, ranging from official warning to expulsion, depending on the severity of the offense. The University will consider the concerns and rights of both the complainant and the person accused of sexual misconduct or harassment.

I. Prohibited Conduct

Sexual Misconduct Offenses
Any of the following forms of behavior will be considered a violation of this policy:

1. Non-Consensual Sexual Contact- any intentional sexual touching, however slight, with any body part or any object, without consent.
2. Non-Consensual Sexual Intercourse or Penetration – any sexual intercourse or penetration (vaginal, anal or oral), however slight, with any body part or any object, without consent.
3. Sexual Exploitation – behavior that takes non-consensual sexual advantage of any person to benefit any other person when the behavior does not otherwise constitute a sexual misconduct violation. Examples of sexual exploitation include, but are not limited to: • prostituting another person;
   • non-consensual video or audio-recording of sexual activity, or transmitting or distributing video or audio-recordings without permission;
   • voyeurism or spying on persons where they have a reasonable expectation of privacy;
   • knowingly transmitting a sexually transmitted infection or HIV to another person;
   • stalking with a sexual component. Stalking may take many forms, including persistent calling, texting, or posting on a social networking site as well as physical stalking. When the content of the messages or the nature of the physical
4. Domestic/Relationship violence- any violence by a person with whom the victim shares a history of a romantic or intimate relationship.

5. Other Sexual Misconduct- inappropriate sexual behaviors not covered previously in this section. Examples include but are not limited to sexual activity in public places.
Sexual Harassment Offenses
Any gender based verbal or physical conduct that unreasonably interferes with or deprives others of their right to access and benefit from the educational and other programs and services of the University is a violation of this policy. Sexual harassment offenses fall into two general categories.

Hostile Environment - harassing conduct that is sufficiently severe, pervasive/persistent and patently/objectively offensive that it substantially interferes with the conditions of education or employment, from both a subjective (the alleged victim’s) and an objective (reasonable person’s) viewpoint.

The determination of whether an environment is “hostile” will be based on all of the circumstances. These circumstances could include but are not limited to:
- the frequency of the conduct;
- the nature and severity of the conduct;
- whether the conduct was physically threatening;
- whether the conduct was humiliating;
- whether the conduct was directed at a specific individual or more than one person;
- whether the conduct arose in the context of other discriminatory conduct;
- whether the conduct unreasonably interfered with the alleged victim’s educational or work performance; or
- whether the statement is an utterance of an epithet which offends an employee or student, or offends by discourtesy or rudeness;
- whether the speech or conduct is excluded from the protections of free speech or academic freedom.

Quid-pro-Quo - A violation of this type exists when there are:
- unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and
- submission to or rejection of such conduct results in adverse educational access or employment action.

II. Consent
In order for individuals to engage in sexual contact of any kind, there must be clear consent between the individuals involved.

- The person giving consent must be capable of doing so freely, with the ability to understand what they are doing and the who, what, when, where and how of the sexual contact they are consenting to.
- Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity.
- It is the obligation of the person initiating sexual contact to obtain clear consent for the specific type of sexual contact sought.
- Silence or passivity without words or actions that communicate mutually understandable permission cannot be assumed to convey consent.
- Consent for one form of sexual contact does not imply consent to other forms.
- Past consent does not constitute consent for future sexual activity. Use of violence, threats, coercion, or intimidation invalidates any consent given.
- Persons who are incapacitated due to the use of drugs or alcohol cannot give consent.
- Consent cannot be given by a person who is unconscious or sleeping. If consent has been given while a person is conscious or awake, and then that person becomes unconscious or falls asleep, consent terminates at that point.
- Persons, who are unable to give valid consent under the law, will be considered unable to give consent under this policy.
- The University will apply a reasonable person standard in determining whether or not consent was given and whether a person was incapacitated, unless otherwise required by law.

### III. Title IX

Title IX of the Education Amendments of 1972 is a federal law that prohibits sex discrimination in education. It reads:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

--Legal Citation: Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R. Part 106 (Title IX)

#### Other Relevant Laws

Sex discrimination includes sexual harassment and sexual assault and may violate the New Jersey Law Against Discrimination, N.J.S.A 10:5-1 et seq.

While it is often thought of as a law that applies to athletics programs, Title IX is much broader than Athletics and applies to many programs at Rowan University. While compliance with the law is everyone’s responsibility at Rowan, listed below are the staff members who have primary responsibility for Title IX compliance. Rowan University has designated the Assistant Vice President of Equity and Diversity as the Title IX Coordinator for all matters related to sexual discrimination at the University and to coordinate the efforts of the University to comply with the Title IX law.

#### Title IX Coordinator

*For Faculty, Staff and Visitors*

Dr. Johanna Velez-Yelin  
Assistant Vice President of Equity and Diversity/Chief Equity Compliance Officer  
Diversity and Equity Office, 124 Linden Hall  
856-256-5440  
velez-yelin@rowan.edu

Responsibilities: Monitoring and oversight of overall implementation of Title IX compliance at the University, including coordination of training, education, communications, and administration of grievance procedures for faculty, staff, students and other members of the
University community. The Assistant Vice President should be contacted for all complaints against faculty, staff and visitors, including those complaints filed by students. Develop and participate in activities to raise awareness regarding sex/gender issues and related institutional policies.

**Title IX Deputy Coordinators**

*For Students:*

Dr. Penny McPherson-Barnes  
Associate Dean for Academic Enrichment/Director of EOF/MAP  
EOF/MAP Office, 345 Savitz Hall  
856-256-4086  
barnesp@rowan.edu

Mr. Joseph Mulligan  
Associate Dean for Civic Involvement  
Student Center 2nd floor  
856-256-4242  
mulligan@rowan.edu

Mr. Travis Douglas  
Director Residential Learning and University Housing  
Savitz Ground Floor  
856-256-4266  
douglast@rowan.edu  
Responsibilities: Compliance for matters involving students, including training, education, communication, and administration of grievance procedure for all complaints against students.

*For Athletics:*

Ms. Penny Kempf  
Associate Director Athletics  
Athletics Office, Esby Gym  
856-256-4679  
kempf@rowan.edu  
Responsibilities: Compliance for matters involving complaints about gender equity and sexual misconduct in Rowan athletic programs.

*For Cooper Medical School of Rowan University:*

Ms. Marion Lombardi  
Chief Student Affairs Officer  
Room 366  
CMSRU Medical Education Building  
Camden, NJ  
856-361-2850  
lombardim@rowan.edu  
Responsibilities: Compliance for matters involving students of Cooper Medical School of Rowan
University, including training, education, communication, and administration of grievance procedure for all complaints against students.

**For Rowan University School of Osteopathic Medicine:**
Ms. Paula Watkins  
Director of Enrollment Services  
Admissions Office, Suite 210 Academic Center  
One Medical Center Drive  
Stratford, NJ  
856-566-7050  
Email: fennerpa@rowan.edu  
Responsibilities: Compliance for matters involving students of Rowan University School of Osteopathic Medicine, including training, education, communication, and administration of grievance procedure for all complaints against students.

**For Graduate School of Biomedical Sciences:**
Dr. Diane Worrad  
Director  
42 East Laurel Road  
UDP, Suite 2200  
Stratford, NJ  
856-566-6282  
Email: worrad@rowan.edu  
Responsibilities: Compliance for matters involving students of Graduate School of Biomedical Sciences, including training, education, communication, and administration of grievance procedure for all complaints against students.

**IV. Reporting Options**

Students and those who have knowledge of sexual misconduct or harassment are strongly encouraged to report this information as soon as possible. Prompt reporting of incidents greatly improves the ability of the University and law enforcement to provide support resources to victims and to address the violations effectively. Although there is no time limit for reporting sexual harassment or misconduct offences, delays in reporting may reduce the ability of the University and law enforcement to investigate and respond to incidents. Students can use the Title IX Complaint Form to report an incident. Where criminal behavior is involved, the University encourages reporting to law enforcement. However, reporting to law enforcement is not required for students to report an incident to the University. A student may choose to report to the University even before they have made a decision about whether or not to report to law enforcement. A student’s choice not to pursue a criminal complaint with law enforcement will not limit their rights or options under this policy. Complaints of sexual misconduct or harassment and Title IX Complaint Forms can be sent to any of the following University administrators:

- Dr. Johanna Velez-Yelin- Assistant Vice President of Equity and Diversity and Title IX Coordinator (856-256-5440)
- Dr. Penny McPherson-Barnes- Associate Dean for Academic Enrichment/Director of
The complaint should contain a concise statement of the alleged violations of the Student Sexual Misconduct and Harassment Policy and a detailed statement of the facts supporting the alleged violations. When a designated administrator receives a complaint of a violation, the administrator will provide information about options and resources available to the student(s) involved. The administrator will collect basic information from the reporting party and will refer the complaint to a designated University administrator for further investigation.

Where criminal behavior is involved, complaints may be filed with the law enforcement agency that has jurisdiction in the place where the crime took place. For offenses that occur on the University campus, that agency is Rowan Public Safety, 856-256-4911. Rowan Public Safety can assist students in contacting and filing a complaint with any other agency when the incident did not occur on campus.

For complaints in which an employee is involved, students have the right to file a complaint with the New Jersey Division of Civil Rights or the U.S. Equal Employment Opportunity Commission. Students can also file an internal complaint at the Office of Equity and Diversity. A copy of the New Jersey Policy Prohibiting Discrimination in the Workplace and the corresponding Model Procedures is available in the Office of Equity and Diversity or at the website: www.rowan.edu/equity.

**Retaliation**

Any harassment or adverse employment or educational action taken against a person because of that person’s participation in a complaint or investigation of discrimination or sexual misconduct is a violation of this policy, and will result in immediate action by the University to stop the retaliatory behavior, prevent further violations by the perpetrator(s), and remedy any adverse impact of the violation.

**V. Confidentiality**

When the University is made aware of a report or allegation of sexual misconduct or harassment, the University will endeavor to maintain the confidentiality of the matter and of all individuals involved to the extent permitted by law. The University will balance the needs of the individuals involved (victim and accused) with its obligation to fully investigate allegations and to protect the safety and wellbeing of the community at large. In all cases, the University and its employees
will respect the dignity and rights of all individuals involved.

When consulting campus resources, victims should be aware that certain campus authorities are mandated to report and take action after receiving information regarding sexual misconduct and harassment. These include but are not limited to, Public Safety Police and Security Officers, managers and supervisors, coaches, club and organization advisors, faculty, Deans, and Residential Learning staff (RAs, RDs, and RLCs).

If you wish to speak to employees of the University confidentially, ask them about their ability to maintain confidentiality. Different people on campus have different reporting responsibilities, and different abilities to maintain your confidentiality, depending on their roles at the University.

**Confidential Resources**

Students who desire that details of an incident be kept confidential can receive confidential services through the Counseling & Psychological Services Center (856-256-4222). There are counselors available with specialized training to support victims of sexual violence. Counselors are available to help you free of charge, and can be seen on an emergency basis. The Student Health Center (856-256-4333) can also provide confidential consultation with victims and may offer treatment to prevent sexually transmitted infections or pregnancy. In circumstances where the Health Center is unable to offer these services, they will provide a referral to an appropriate medical resource. In addition, you may speak on and off campus with members of the clergy, who will also keep reports made to them confidential.

When speaking with these resources, your right to confidentiality is legally protected. However, there are limits to this protection in specific situations. If you disclose that the incident involved the use of a weapon or other contraband as defined by New Jersey law, or there is an ongoing threat or danger to the safety of another person (particularly children or the elderly), these resources may be required to report the incident to police.

**Federal Statistical Reporting Obligations**

Certain campus officials have a duty to report sexual misconduct for federal statistical reporting purposes. All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, etc.- with addresses withheld), for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime to ensure greater community safety. Mandated federal reporters include: Student Life managers or supervisors, campus law enforcement, local police, coaches, athletic directors, Resident Assistants and Resident Directors, student activities staff, human resources staff, advisors to student organizations and any other staff members with significant responsibility for student and campus activities.

**Federal Timely Warning Obligations**

Victims of sexual misconduct should also be aware that University administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or
danger to members of the community. The University will make every effort to ensure that a victim’s name and other identifying information is not disclosed, while still providing enough information for community members to make decisions related to their safety in light of the danger. The individuals required to report for timely warning purposes are exactly the same as detailed at the end of the previous paragraph.

VI. Rights of Complainants and Accused Students

- The right to request a Campus No Contact Directive against another student who has engaged in or threatens to engage in an act of sexual misconduct or harassment which presents a danger to the welfare of the complainant or others.
- The right to request a No Contact directive against another student involved in a complaint.
- The right to a reasonable investigation and appropriate resolution of all credible formal complaints.
- The right to have a hearing.
- The right to have a support person (Advisor) of their choosing accompany and assist them throughout the Student Disciplinary Process. The Advisor may not speak or take part directly in the hearing itself, though the student may request a recess to confer with their respective Advisor.
- The right to consult with an attorney at their own expense outside the Student Disciplinary Process. An attorney may not speak or take part directly in the hearing itself but is permitted to serve as an Advisor.
- The right to have the University compel the presence of student, faculty and staff witnesses, and the right to ask questions, directly or indirectly, of witnesses, and the right to challenge documentary evidence.
- The right to petition that any Administrative Hearing Officer/Sexual Misconduct & Harassment Hearing Board member be removed on the basis of bias.
- The right to be present for all information given and evidence presented at a hearing.
- The right to present relevant witnesses at a hearing, including expert witnesses.
- The right to submit a written Impact Statement at the conclusion of the hearing and to have that statement considered by the Administrative Hearing Officer/Sexual Misconduct & Harassment Hearing Board in determining its sanction if it has been determined that the accused violated the Student Sexual Misconduct and Harassment Policy.
- The right to receive written notice of the outcome and sanction(s) of the hearing.
- The right to appeal the finding and sanction of the Administrative Hearing Officer/Sexual Misconduct & Harassment Hearing Board in accordance with the provisions of the Student Sexual Misconduct and Harassment Policy.
- The right to be informed in advance of any public release of information regarding the formal complaint to the extent possible and as allowed by law.
- The right to be free from retaliation.

VII. Procedures

Voluntary Resolution Procedures

1. Some complaints of sexual misconduct can be resolved through voluntary problem resolution processes between parties. The Title IX Coordinator or appropriate administrator may arrange for/or facilitate mediation between the involved parties or
coordinate other voluntary problem resolution.

2. The University reserves the right to extend time periods identified in this policy. The resolution of a complaint will be completed within 60 days, unless extraordinary circumstances exist.

3. Once a report of sexual misconduct has been made, voluntary resolution procedures will be initiated within seven calendar days. Details of the complaint will be given to the accused during the first investigatory interview.

4. Voluntary Resolution Procedures are optional and may be used when the University determines that it is appropriate. Voluntary procedures are never applied in cases involving violence or nonconsensual sexual intercourse or penetration.

5. An investigation into the report will be conducted by the Title IX Coordinator or appropriate administrator. For reports involving allegations against University employees, the Title IX Coordinator and Director of Human Resources may jointly conduct the investigation and resolve the issue according to employee policy.

6. Once the Voluntary Resolution Procedure is complete, written notification to both parties will be given by the Title IX Coordinator or appropriate administrator. If either party is unsatisfied with the outcome of the voluntary resolution procedure, the formal resolution procedure may be pursued.

**Formal Resolution Procedures**

1. The formal resolution procedure will be followed when the University determines it is necessary.

2. The University reserves the right to extend time periods identified in this policy. The resolution of a complaint will be completed within 60 days, unless extraordinary circumstances exist.

3. Once a report of sexual misconduct has been made, an investigation into the report will be initiated by the Title IX Coordinator or appropriate administrator within seven calendar days. For reports involving allegations against University employees, the Title IX Coordinator and Director of Human Resources may jointly conduct the investigation and resolve the issue according to employee policy.

4. The investigation may include any of the following: interviews of the parties involved, including witnesses, review of written statements, and the gathering of other relevant information.

5. For reports in which the accused is a student, the complainant may initiate charges through the Student Disciplinary Process which is found in Section F of the Rowan Student Code of Conduct.

6. Once the accused has been notified of the formal written complaint, the complainant and the accused will be kept informed of all developments and will be advised of the procedures that will guide the resolution of the complaint. Details of the complaint will be given to the accused during the first investigatory interview.

7. Findings will be based on a “Preponderance of the Evidence” standard which means whether “It is more likely than not” that a violation of the Sexual Misconduct and Harassment Policy occurred.

8. When investigative findings do not substantiate a violation, a hearing may be requested by either party within 5 business days (exceptions may be made in extenuating circumstances).
9. The Student Disciplinary Process will be confidential to the extent possible and as allowed by law.

10. For complaints that will be adjudicated by the Student Disciplinary Process, the appropriate adjudicator will be determined as follows:

   - **Administrative Hearing Officer** - If the alleged violation is one for which the accused student could not be suspended or expelled from the University, the complaint will be heard by an Administrative Hearing Officer.

   - **Sexual Misconduct & Harassment Hearing Board** - If the alleged violation is one for which the accused student could likely be suspended or expelled from the University, the complaint will be heard by the Sexual Misconduct & Harassment Hearing Board.

11. The accused and complainant will be informed in writing of the date and time of the hearing before the Sexual Misconduct & Harassment Hearing Board or appropriate Administrative Hearing Officer.

12. The accused and complainant will have the opportunity to make a request to the Associate Dean for Civic Involvement for witnesses to participate in the hearing on their behalf. Witnesses will be approved based on the relevance of the information that they are expected to provide.

13. The accused and complainant must notify the Associate Dean of any advisors and witnesses attending the hearing 5 business days prior to the hearing.

14. Any additional scheduling requests must be directed to the Associate Dean to be determined.

15. If a sexual misconduct or harassment case based on the same alleged incident(s) is also being heard by a civil or criminal court, the University retains the right to hear the case before, after, or during the same time as the civil or criminal case, and to implement appropriate action (such as No Contact Directives, removal from campus residence facilities, removing a student from a class or classes or Interim Suspension) to maintain the safety of the parties involved and the campus.

16. The University will attempt to schedule a hearing within 20 business days after the accused has received the formal complaint.

17. Modifications to Sexual Misconduct & Harassment Hearing Board procedures for sexual misconduct and harassment complaints

   - The Associate Dean for Civic Involvement (or designee) will assemble a Sexual Misconduct & Harassment Hearing Board of at least three trained staff members to hear sexual misconduct and harassment cases and will serve as the Chair. Each Sexual Misconduct & Harassment Hearing Board will be composed of representatives of both genders.

   - All hearings will be closed to the public.

   - Each Board member must indicate to the Associate Dean within 3 days prior to the hearing whether they have knowledge of the participants in the case that may impair – or may be perceived to impair – their ability to hear and determine a case impartially, and to excuse themselves if their participation might compromise the integrity of the hearing process.

   - All hearings will be audio recorded. A digital file will be made available to the complainant and/or accused student in the event a request for an appeal is filed.

   - Board members will be provided with access to written information and evidence...
at least 24 hours prior to the hearing.

- The accused student and complainant may each be accompanied by an Advisor. The Advisors are present to support the accused student and complainant, and to provide advice on procedural matters. The Advisors do not have speaking privileges during the hearing. A hearing will not be cancelled or postponed in the event an Advisor does not attend. If the Advisor is not able to attend, the accused student or complainant should arrange for a substitute.

- If the accused student or complainant fails to appear at the hearing, the matter will be resolved in their absence.

- Witnesses may be present at the hearing only at the time they are called to participate. A hearing will not be cancelled or postponed if a scheduled witness does not attend.

- Written statements of witnesses not in attendance due to extraordinary circumstances may be considered by the Sexual Misconduct & Harassment Hearing Board, if approved by the Chair.

- In making its determination the Sexual Misconduct & Harassment Hearing Board will consider only the evidence admitted at the hearing and the admission of evidence will be within the discretion of the Chair.

- At the start of the hearing, the Chair will ask the accused student if they have received the formal complaint, and if they understand the nature of the formal complaint.

- The designated administrator will present the formal complaint along with the information obtained through the investigative process to the Sexual Misconduct & Harassment Hearing Board. Only the information and evidence related to the alleged violations set forth in the formal complaint will be considered.

- The remainder of the hearing will customarily proceed in the following order:
  1) Opening statement from complainant.
  2) Opening statement from accused student.
  3) Complainant and accused student questioning of witnesses (each witness will be questioned separately).
  4) Board questioning of witnesses (each witness will be questioned separately then excused).
  5) Board questioning of complainant and accused student.
  6) Accused student’s responding statement.
  7) Complainant’s responding statement.
  8) Final questions from Board
  9) Accused student’s closing statement.
  10) Complainant’s closing statement.

- The Sexual Misconduct & Harassment Hearing Board will deliberate in private and make an appropriate determination based on the information presented during the hearing.

- The Sexual Misconduct & Harassment Hearing Board by a majority decision will determine whether or not the accused student violated the Sexual Misconduct and Harassment Policy as alleged in the formal complaint by finding either: “In violation” or “Not in violation” of the Sexual Misconduct and Harassment Policy. The Sexual Misconduct & Harassment Hearing Board’s
determination will be based on a “Preponderance of the Evidence” standard which means whether “It is more likely than not” that a violation of the Sexual Misconduct and Harassment Policy occurred.

- If a determination of “In violation”, is rendered the Sexual Misconduct & Harassment Hearing Board will determine an appropriate sanction(s) consistent with those specified in the Rowan University Student Code of Conduct, Section G5. “Standard Sanctions for Sexual Misconduct and Harassment Violations”
- The Sexual Misconduct & Harassment Hearing Board will have up to ten days to render a decision.
- The Associate Dean will notify both the complainant and accused student in writing of the decision.
- Both the complainant and the accused student may file a written appeal of the decision in accordance with established procedures (See Section VIII of the Student Sexual Misconduct and Harassment Policy)

VIII. Appeals

1. Upon receiving notification of the outcome of a case, the accused student, complainant, or the victim may file an appeal under the following circumstances:
   a. The specified procedural error(s) or error(s) in the interpretation of University regulations is so substantial as to effectively deny the participant a fair hearing.
   b. New and significant information has become available which could not have been discovered by a properly diligent person before or during the hearing.
   c. A belief that the sanction is inappropriate in light of the violation
   d. The facts of the case were insufficient to establish that a violation occurred.

   If information is brought to the Vice President/Dean of Students that merits an appeal under any of the reasons stated above, the Vice President or his designee can also file an appeal request.

2. All appeals must be made within five (5) business days of the date on the letter informing the parties of the decision. Appeals must be submitted in writing to the Associate Dean for Civic Involvement and should explain in detail the basis of the request, including any supporting documentation.

3. Upon receipt of the written appeal, the Associate Dean for Civic Involvement will defer the imposition of the sanction(s) pending the decision on the appeal. Note: Interim Suspension as well as any other prior restrictions will remain in effect during the appeal process.

4. Cases adjudicated by the Sexual Misconduct & Harassment Hearing Board will be forwarded to the Sexual Misconduct & Harassment Appeals Board. All other cases will be forwarded to the Vice President for Student Life/Dean of Students or designee.

5. An appeal will be responded to within 15 days and a final decision will be issued in writing either accepting or denying the appeal and giving the reasons for this decision.

6. The Sexual Misconduct & Harassment Appeals Board:
   a. The Associate Dean for Civic Involvement convenes the Sexual Misconduct & Harassment Appeals Board. The Board is comprised of three members of the University’s Administration (appointed by the Office of the President). Designees may be used in any of the positions. Each member must be in attendance for a
quorum.

b. The Sexual Misconduct & Harassment Appeals Board will review the written appeal and all documentation contained in the case file in a closed meeting. The decision to deny or uphold the appeal will be made by a simple majority vote. If an appeal is upheld based on procedural error or new information (reasons a or b above), the case will be remanded to the Sexual Misconduct & Harassment Hearing Board for re-opening of the hearing. If an appeal is upheld based on disproportionate sanction or lack of sufficient information (reasons c or d above), the Sexual Misconduct & Harassment Appeals Board will render the appropriate determination and/or sanction.

c. Normally, all Sexual Misconduct & Harassment Appeals Board decisions are final and will be forwarded to the Office of Community Standards and Commuter Services for immediate implementation. For cases involving an expulsion of a student, the accused student, complainant, victim or the Vice President for Student Life/Dean of Students or designee (in Sexual Misconduct & Harassment Hearing Board cases) may request that the President of the University review the decision of the Sexual Misconduct & Harassment Appeals Board.

d. A request for review by the President must be made within two (2) business days of the date on the letter informing the parties of the Sexual Misconduct & Harassment Appeals Board decision. The request must be submitted in writing to the Office of Community Standards and Commuter Services and must include clear and convincing reasons to change the decision of the Sexual Misconduct & Harassment Appeals Board. The President may or may not elect to review a decision. The request for review will be responded to within 15 days by the Office of the President.

7. When it is not possible for the Sexual Misconduct & Harassment Appeals Board to meet within the established a time, an appeal from Sexual Misconduct & Harassment Hearing Board cases may be reviewed by the Vice President for Student Life/Dean of Students for final disposition.

8. The appeals process described will be the final step in the discipline process and constitutes final agency action.

IX. Consequences

1. An Administrative Hearing Officer/ Sexual Misconduct & Harassment Hearing Board will determine the most appropriate sanction in each specific case, taking into consideration the severity of the conduct represented in the complaint as well as any mitigating circumstances. Neither the Administrative Hearing Officer, Sexual Misconduct & Harassment Hearing Board nor any appeals body or officer will deviate from the range of standard sanctions unless compelling justification exists to do so.

Standard Sanctions for Sexual Misconduct and Harassment Violations

A. Any violation involving the use, attempted use; or threat of use of a weapon or other dangerous, illegal, or hazardous, object; or, the use or attempted use of a drug or intoxicant to incapacitate a person.
   - University Expulsion, Notification of Parent/Guardian

B. Any form of non-consensual sexual intercourse or penetration
- University Expulsion, University Suspension, Notification of Parent/Guardian

**C. Non-consensual Sexual Contact without use of a weapon, drug or intoxicant; Sexual Exploitation or Sexual Harassment**
- Disciplinary probation, University Suspension, or Expulsion; Suspension of Campus Housing Privileges (if the student is not Suspended from the University and lives in Campus Housing), educational sanctions, Notification of Parent/Guardian

2. The University will take reasonable steps to remedy the discriminatory effects on the victim(s) and others. Examples of such remedies may include: No Contact Directives, change of on-campus student housing assignment, exam (paper or assignment) rescheduling, taking an incomplete grade in a class, transferring of class sections, alternative course completion options, etc.

3. The University will take reasonable steps to prevent the recurrence of sexual misconduct in any form. If recurrence takes place, those responsible for such behavior may be subject to additional disciplinary action.

4. The University prohibits retaliation against any individual who in good faith reports sexual misconduct or harassment or participates in any investigation of such complaints. Retaliation is a serious violation of this policy and, like the harassment itself, will be subject to disciplinary action.

**IX. Special Provisions**

**Alternative Testimony Options**
For complainants, alternative testimony options will be provided. Options include, placing a privacy screen in the hearing room, providing testimony from another room via video or other options that provide a safe space for participation while not depriving the accused student of their rights in the process. While alternative testimony options are intended to help make the complainant more comfortable, they are not intended to work to the disadvantage of the accused student.

**Attempted Violations** In most circumstances, the University will treat attempts to commit any of the violations described in this policy as if those attempts had been completed, and students will be subject to disciplinary action accordingly.

**False Reports** The University does not tolerate intentional false reporting of incidents. It is a violation of the Student Code of Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

**Immunity from Disciplinary Action** The welfare of students in our community is of paramount importance. It is in the best interests of this community that as many victims as possible choose to report incidents involving sexual misconduct or harassment. The University encourages the reporting of sexual misconduct and harassment violations. The University also encourages students to offer help and assistance to others in need. This is true even when the student who has a complaint or a witness may have a concern that his or her own actions, including drug or alcohol use, may have violated university policies. Under the Good Samaritan Practice, the
University will not pursue disciplinary action for drug or alcohol violations, or most other violations of the Code of Student Conduct, against a victim or witness who comes forward in good faith to report sexual misconduct or harassment. While violations cannot always be completely overlooked, the university will provide educational options rather than punishment, in such cases. This limited immunity does not extend to the perpetrator(s) of the sexual misconduct or harassment, crimes of violence, or other serious criminal behavior.

**Notification of Outcomes** The outcome of a campus disciplinary hearing is part of the education record of the accused student and is protected from release under FERPA. However the University observes the exceptions as follows:

- Victims of incidents charged under the Sexual Misconduct and Harassment Policy have a right to be informed of the outcome and sanctions of the hearing, in writing. Victims are also permitted to submit an appeal.
- Students who bring a complaint against faculty or staff under the Sexual Misconduct and Harassment Policy may be informed of the outcome and sanction.
- The University may release publicly the name, nature of the offense and sanction for any student who is found in violation of a University policy that is a sex offense or crime of violence (refer to Student Code of Conduct, Sections A & K)
- Parents or guardians of the accused student may be notified for cases involving sex offenses or crimes of violence (refer to Student Code of Conduct, Sections A & K)

**Past Sexual History/Character** The past sexual history or sexual character of a student will not be admissible by the other party in hearings unless such information is determined to be highly relevant by the Chair. All such information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be included in the complaint/response or a subsequent written request, and must be reviewed in advance of the hearing by the Associate Dean. If, in the past, the accused student was found to have violated the Student Sexual Misconduct and Harassment Policy, the information related to that past violation may be considered in the hearing if: (a) The previous violation was substantially similar to the present complaint; and (b) The previous violation indicates a pattern of behavior and substantial conformity with that pattern by the accused student.

**University as Complainant** As necessary, the University reserves the right to initiate a complaint, to serve as complainant, and to initiate campus disciplinary proceedings without a formal complaint by the victim of sexual misconduct or harassment.

**X. New Jersey Sexual Assault Victim's Bill of Rights**
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 university community in achieving these ends.

The boundaries of personal freedom are limited by applicable state and federal laws and institutional rules and regulations governing interpersonal behavior. In creating a community free from violence, sexual assault and non-consensual 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.

**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 provide assistance in changing academic and living situations if such changes are reasonably available.