



**Policy Title:** Prohibition against Discrimination, Harassment and Sexual Misconduct

**Former Policy Number:**

**Document Owner:**  
Adam Michelman

**Approver(s):** Adam Michelman

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**Applies To:** RUMC  RUMG  ROPH  RCMC  RCH  ROPPG  RCMG

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## I. INTRODUCTION

Rush<sup>1</sup> is committed to the principles of equal opportunity and promoting and maintaining an environment that emphasizes the dignity and worth of every member of its community. Rush strives to have an environment that is free of discrimination, harassment, sexual misconduct, and related retaliation (collectively, "discrimination").

Rush has a legal duty to prevent and redress discrimination and harassment, as well as a moral and ethical duty to do so. Indeed, such conduct is contrary to Rush's values, represents professionally and socially irresponsible behavior; and can damage the trust, influence and reputation of Rush and the medical profession. Moreover, because Rush's primary mission of furthering the public good relies on maintaining public trust and confidence, it is essential that every member of the Rush community share in the responsibility for meeting our community's conduct expectations. It is equally important that members of our community appreciate the impact discrimination and harassment can have on our environment, and the potential for severe consequences for such behavior.

## II. POLICY STATEMENT

Rush strictly prohibits all forms of discrimination against any member of the Rush community, including but not limited to students, members of the faculty, all employees, volunteers, guests and vendors (hereinafter the "Rush Community").

## III. RESPONSIBLE PARTY AND RESPONSE PROCEDURES

This policy, the Anti-Discrimination and Harassment Policy (hereinafter "this or the Policy"), is administered by the Office of Institutional Equity (hereinafter "OIE"). The Policy addresses Rush's obligations under relevant provisions of state and federal laws. Rush values the fair, prompt and equitable inquiry into allegations of discriminatory conduct. Rush will not hesitate to take swift and strong action when, by a preponderance of the evidence, an investigation concludes that this Policy was violated. Discrimination will not be tolerated.

## IV. SCOPE OF POLICY

This Policy applies equally to all members of the broader Rush Community, including employees, Rush-appointed faculty as well as staff of any kind, students, residents, graduate fellows, and visiting students not enrolled at Rush University, patients, third parties with a contractual or business associate relationship or partnership with Rush, volunteers, and guests.

This Policy applies to:

- Reports of discrimination, harassment, and sexual misconduct<sup>2</sup> as defined by this Policy, by any member of the Rush community, including students.

<sup>1</sup> For purposes of this Policy, Rush University Medical Center encompasses the Rush Health System which is comprised of Rush University Medical Center (RUMC), Rush University Medical Group (RUMG), Rush Oak Park Hospital (ROPH), and Rush Copley Medical Center (RCMC) and will be referred to collectively as "Rush" hereinafter.

<sup>2</sup> Sexual Harassment that occurs within Rush's Education Programs and Activities and that is committed by an administrator, faculty member, staff, student, contractor, guest, or other member of the Rush Community is covered under *Rush's Prohibition against Sexual Harassment Policy*; any report related to those issues will be investigated and resolved according to the procedures in *the Prohibition against Sexual Harassment Policy*, even if the report is initially filed under this policy. This policy applies to Sexual Harassment that occurs off-campus, in a private setting, and outside the scope of Rush's Education Programs or Activities, including gender/sex-based discrimination.



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Issues related to Sexual Harassment (including related Retaliation) will be addressed in accordance with HR-E 2.00(A): "Prohibition Against Sexual Harassment in Rush Programs and Activities," which can be found on the Rush intranet. Sexual Harassment, as well as retaliation for reporting Sexual Harassment, is illegal in Chicago.<sup>3</sup>

Other Rush policies that may be considered in investigating a reported violation of this Policy include, but are not limited to:

- HR-E 01.00: The Rush Code of Conduct
- HR-E 01.50: The Prohibition on Disruptive Conduct in the Workplace
- HR-E 06.00: Workplace Violence Prevention
- HR-E 07.00: ADA Accommodation Request Process

It is important that all members of the Rush community understand that this Policy does not just prohibit discrimination and harassment of employees by employers. This Policy is broader and prohibits discrimination, harassment, and sexual misconduct between members of the Rush community more generally: for example, between members of the faculty, between an employee and a campus guest, and between an employee and an applicant for employment, etc.

Conduct does not need to occur on Rush property and/or during working hours to violate this policy.

Sexual Harassment that occurs within Rush's Education Programs or Activities and that is committed by an administrator, faculty member, staff, student, contractor, guest, or other member of the Rush Community is covered under Rush's *Prohibition against Sexual Harassment in Rush Programs and Activities Policy*; any report related to those issues will be investigated and resolved according to the procedures in the *Prohibition against Sexual Harassment in Rush Programs and Activities Policy*, even if the report is initially filed under this policy.

Conduct that is initially raised through a Formal Complaint under the *Prohibition against Sexual Harassment in Rush Programs and Activities Policy* may also be addressed under this Policy, in Rush's discretion, when: (i) the conduct at issue, or some part of it, may constitute a violation of this Policy irrespective of whether it constitutes Sexual Harassment under the *Prohibition against Sexual Harassment in Rush Programs and Activities Policy*; (ii) the Formal Complaint, or some part of it, has been dismissed under the *Prohibition against Sexual Harassment in Rush Programs and Activities Policy*; or (iii) a final determination of a Formal Complaint has been made under the *Prohibition against Sexual Harassment in Rush Programs and Activities Policy* and separate or additional action may be necessary to enforce this Policy.

This policy applies to Sexual Harassment that occurs off-campus, in a private setting, and outside the scope of Rush's Education Programs or Activities, including gender/sex-based discrimination.

Incapacitation and intoxication do not provide valid explanations or excuses for violating this Policy.

## V. CONDUCT OUTSIDE THE SCOPE OF THIS POLICY

Conduct that does not fall under the purview of this Policy may still violate Rush's Code of Conduct, Disruptive Conduct Policy, or other applicable policies. Further, conduct that does violate one or more of Rush's policies may still be contrary to

<sup>3</sup> *Sexual Harassment* is defined by the City of Chicago as any (i) unwelcome sexual advances or unwelcome conduct of a sexual nature; (ii) requests for sexual favors or conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or (2) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment; or (iii) sexual misconduct, which means any behavior of a sexual nature which also involves coercion, abuse of authority, or misuse of an individual's employment position.



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Rush’s ICARE Values. Reports of misconduct that, if substantiated, would not constitute a violation of this Policy and/or after an investigation are found unsubstantiated under this Policy, may nonetheless fall short of Rush’s expectations for professionalism, civility, and standards of conduct. Such reports may be referred by OIE to a manager, appropriate Dean and/or Human Resources for consideration and appropriate action in response. Nothing in this Policy prevents OIE from imposing non-disciplinary action in response to reports outside the scope of this Policy including but not limited to: issuing reasonable no-contact orders, conducting advisory discussions, providing training, offering resources regarding Rush’s policies and conduct expectations, and providing referrals for counseling and training.

Sexual Harassment that occurs within Rush’s Education Programs and Activities and that is committed by an administrator, faculty member, staff, student, contractor, guest, or other member of the Rush Community is covered under Rush’s *Prohibition against Sexual Harassment in Rush Programs and Activities Policy*; any report related to those issues will be investigated and resolved according to the procedures in the *Prohibition against Sexual Harassment in Rush Programs and Activities Policy*, even if the report is initially filed under this policy.

## VI. REPORTING OPTIONS

It is central to the values of Rush that any member of the campus community who believes they may have witnessed or been the target of discrimination or harassment be encouraged to report concerns for an appropriate response and investigation, without fear of retaliation or retribution.

All reports and concerns about conduct that may violate this Policy should be made with any Rush manager,<sup>4</sup> or reported directly to OIE at [nancee\\_b\\_hofheimer@rush.edu](mailto:nancee_b_hofheimer@rush.edu).

Anonymous reports can also be made through The Rush Hotline (877/787-4009) or via our web reporting tool at [www.rush.ethicspoint.com](http://www.rush.ethicspoint.com). Anonymous Reporters do not need to identify themselves, but are asked to provide enough information to enable an investigation into the concern. Upon receipt of a report, the Office of Institutional Equity will evaluate the information received and determine what actions should be taken consistent with the Policy and Procedures outlined herein.

Upon receiving a report of an incident of Sexual Harassment that occurs off-campus, in a private setting, and outside the scope of Rush’s Education Programs or Activities, Rush will provide the Complainant with a written document (separate from this Policy) listing, in plain, concise language, the Complainant’s available rights, options and resources, as well as a description of Rush’s procedures for investigating and resolving the report. Rush will also provide the Respondent with a written document (separate from this Policy) listing, in plain and concise language, the Respondent’s available rights, options and resources, as well as a description of Rush’s procedures for investigating and resolving the report.

A copy of Rush’s notifications of rights and options can also be obtained at: <https://www.rushu.rush.edu/student-disclosure-information/health-and-safety/sexual-harassment-and-assault-prevention>

Some reports made under this Policy may be criminal in nature and may, therefore, be reported to the applicable Rush Security Department or the Police Department.

Rush (RUMC) Security Department  
312-942-5678  
From Campus Phone: 2-5678  
Chicago Police Department: Dial 911

Rush (Oak Park) Security Department  
708-660-2211  
From Campus Phone: 6-2211

<sup>4</sup> Expectations for Rush managers under this Policy are discussed in Section VII. Responsibilities.



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Oak Park Police Department: Dial 911

A report may be filed at any time, regardless of the length of time between the alleged conduct and the decision to file the report. However, Rush strongly encourages individuals to submit reports promptly in order to preserve evidence for any potential investigation or accompanying proceedings. Delays in filing reports may compromise the investigation.

Rush expects that all reports made pursuant to this Policy will be brought in good faith.

Individuals with a report under this Policy against any OIE staff member, should direct their report to the Chief Human Resources Officer who will, in consultation with the Office of General Counsel, determine what actions should be taken.

**Partially Confidential Disclosures**

Rush has identified the following services who are able to keep reports of Sex-Based Harassment and Sexual Misconduct partially confidential if a victim or witness so wishes. Partially confidential advisors are required to report to the Title IX Coordinator that an incident has occurred, and they must provide general details about the incident, but they are not required to disclose any personally identifiable information about the victim/reporting party.

*Chaplaincy Services (RUMC)*  
511A Kidston House  
1653 W. Congress Parkway  
Chicago, IL 60612  
312/942-5826

*Spiritual Care (ROPH)*  
520 S Maple  
Oak Park, IL 60403  
708/660-5658

*The Rush Wellness Assistance Program*  
(Powered by Perspectives, LTD)  
833/304-3627  
<https://insiderush.rush.edu/wellness>

**Confidential Disclosures**

A victim or witness who wishes to keep the incident completely confidential can speak to someone at a local crisis and support center. Any information shared with an advocate or counselor at these agencies will not be shared or discussed with Rush officials and will not constitute a complaint or formal report. The following local crisis centers are available for victims:

*Chicago Rape Crisis Hotline*  
1 N. LaSalle Street #1150, Chicago, IL  
888/293-2080 (24 hours)

*Resilience*  
180 N Michigan Ave #600, Chicago, IL 60601  
312/443-9603

Any Illinois employee who feels they have been subjected to discrimination may also file a charge of discrimination in writing with the Illinois Department of Human Rights within 180 days of the harassment. That charge will be investigated and, if there is substantial evidence that discrimination occurred, a complaint will issue with the Illinois Human Rights Commission. Employees may also file a charge with the Equal Employment Opportunity Commission (EEOC), and have 300 days to do so.



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The Department of Human Rights may be contacted at:  
State of Illinois  
Department of Human Rights State of Illinois Center  
100 West Randolph, Suite 10-100  
Chicago, Illinois 60601  
(312) 814-6200

The Human Rights Commission may be contacted at:

State of Illinois  
Human Rights Commission State of Illinois Center  
100 West Randolph, Suite 5-100  
Chicago, Illinois 60601  
(312) 814-6269

The U.S. Equal Employment Opportunity Commission may be contacted at:  
Chicago: 800-669-4000  
Chicago TTY: 800-869-8001

## VII. RESPONSIBILITIES

It is the responsibility of all members of the Rush community to review this Policy and comply with it.

It is the responsibility of Rush managers (i.e., those that formally supervise other employees) to:

- Inform employees under their direction or supervision of this Policy and its contents
- Work with OIE to implement education and training programs for employees and students
- Implement any corrective actions that are imposed as a result of investigative findings of a violation of this Policy or other applicable policies

All employees have a duty to report alleged violations of this Policy when they receive a report of such conduct, witness such conduct, or otherwise obtain information about such conduct. This includes employees who may have a professional license requiring confidentiality if they are not employed by Rush in that professional role. An employee not reporting discrimination, harassment, or sexual misconduct as required by this Policy may be disciplined accordingly, up to and including termination. Additionally, any Rush manager’s failure to abide by these responsibilities; or any Rush manager’s failure to exercise appropriate discretion upon receiving a report under this Policy, may result in discipline, up to and including termination.

## VIII. CONDUCT PROHIBITED BY THIS POLICY

### i. Discrimination

Discrimination is treating someone unfavorably on the basis of a protected personal characteristic, or imposing an unreasonable condition that disadvantages a person because of their protected personal characteristic. Discrimination excludes an individual from participation in, denies the individual the benefits of, treats the individual differently from or otherwise adversely affects a term or condition of an individual’s employment, education, living environment, or participation in a Rush Education Program or Activity. Discrimination includes failing to provide reasonable accommodations, consistent with state and federal law, to persons with disabilities.

A **protected personal characteristic** includes an individual’s: race, sex, gender, color, religion, national origin, creed, age, ancestry, disability, gender identity and/or expression, marital or parental status, pregnancy, sexual orientation, veteran’s status, or any other categories protected by federal or state law, or local ordinance.



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## ii. Harassment

Harassment is a form of discrimination and is unwelcome conduct based upon a protected personal characteristic that is sufficiently serious (i.e., severe, pervasive or persistent) and objectively offensive so as to create a work or learning environment that a reasonable person would consider intimidating, hostile, or abusive.

Harassing conduct may take various forms, including but not limited to: verbal abuse, slurs, name-calling, derogatory comments or insults, offensive graphic or written statements (including through the use of the internet or social media), or any other conduct that may be harmful, humiliating, or physically threatening. Harassment does not have to include the intent to harm, be directed at a specific target, or involve repeated incidents.

**Sex-Based Harassment:** Unwelcome conduct of a sexual nature that is sufficiently serious (i.e., severe, pervasive or persistent) and objectively offensive so as to deny or limit a person’s ability to participate in or benefit from Rush’s employment or learning opportunities when viewed from the perspective of (a) both the individual affected by the conduct and (b) a reasonable person in the same situation. A person’s adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment. Sex-Based Harassment can also be based on stereotypical notions of what is female/feminine v. male/masculine, and/or a failure to conform to those gender stereotypes. The following factors will also be considered:

1. The degree to which the conduct affected an individual’s employment, care, or participation in Rush’s Education Programs or Activities, or other services;
2. The nature, context, scope, frequency, duration and location of the incident(s);
3. The relationship between the parties (including whether one individual has power or authority over the other, and differentials in age or status within the Rush community); and
4. The identity, number and relationships of the persons involved.

**Examples.** Examples of conduct that may, depending on the circumstances, constitute sex-based harassment include:

1. Sexual remarks, jokes, questions, or comments
2. Display of sexually suggestive objects or pictures
3. Sexual advances, sexual propositions, or sexual demands that are not agreeable to the recipient
4. Unwanted and unnecessary physical touching

Petty slights, annoyances, and isolated incidents (unless sufficiently serious) will not typically rise to the level of a violation of this Policy, but may violate other Rush policies.

## iii. Sexual Misconduct

**Sexual Exploitation.** Taking non-consensual sexual advantage of another for anyone’s advantage or benefit, other than the person being exploited. It includes, but is not limited to: indecent exposure, prostituting another person, non-consensual visual or audio recording of sexual activity, non-consensual distribution of photographs or other images involving sexual activity or nakedness, engaging in non-consensual voyeurism— inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity, arranging for others to commit non-consensual sexual penetration or conduct to a victim, and/or distributing or forcing others to view pornography.

## iv. Retaliation

Retaliation is an action—performed directly or through others—that is aimed to deter a reasonable person from engaging in a protected activity under this Policy, or is done in retribution for engaging in a protected activity, and is prohibited.



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Retaliation includes action taken against any person because that person has opposed any practices prohibited under this Policy or because that person has filed a report, testified, assisted, or participated in any manner in an investigation or proceeding under this Policy. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual’s report or participation.

### IX. STANDARD OF EVIDENCE

Allegations of violations of this Policy will be analyzed using the preponderance of evidence standard. This standard evaluates whether it is **more likely than not** that a proposition is true than not true.

## INVESTIGATION AND ADJUDICATION PROCEDURES

### I. SCOPE

These procedures explain the Office of Institutional Equity’s (“OIE”) process for receiving, considering, investigating, and adjudicating reports under this Policy, *The Prohibition against Discrimination, Harassment, and Sexual Misconduct*. These are referred to herein as “reports.” These procedures do not apply to *Formal Complaints* of Sexual Harassment under *The Prohibition Against Sexual Harassment in Rush Programs and Activities*.<sup>5</sup> Nothing in these procedures shall be construed to limit the ability of Rush managers to appropriately and reasonably stop and address inappropriate behavior occurring in the work and learning environment.

For purposes of these procedures:

- “Complainant” refers to a person who has brought a report forward as an aggrieved or impacted party.
- “Respondent” refers to a person who is alleged to have engaged in behavior in violation of this Policy.
- “Reporter” refers to a person other than the alleged victim of the behavior who is aware of conduct arising under this Policy, and reports the conduct to OIE.
- “Sanctioning Official” refers to the individual that is responsible for issuing a sanction, or sanctions, following a finding of responsibility for a policy violation.

<sup>5</sup> For information on the investigation and resolution of Formal complaints of Sexual Harassment, please refer to *The Prohibition against Sexual Harassment*.

## II. INITIAL ASSESSMENT

Upon receipt of a report, OIE will conduct an initial assessment, which is an informal inquiry into the underlying concerns in the report. The goal of this assessment is to provide a coordinated response to reports of prohibited conduct administered by OIE.

The assessment will consider issues relating to the report including, but not limited to: the nature of the report; any safety concerns to impacted parties and the campus community; a Complainant's expressed preference for resolution, if any; the opportunity for informal resolution; the necessity for reasonable support measures or modifications to the academic or work environments; the short term operations of any impacted department, program or business unit; and Rush's obligation to provide a safe and non-discriminatory environment for all community members.

While balancing the need for privacy interests, OIE may, as needed, consult with supervisors, advisors, and instructors regarding the alleged conduct to inform OIE's initial assessment. As part of this assessment and determine next steps, OIE may:

- (1) **Referral/dismissal.** Determine that the reported concern does not meet the criteria for a possible violation of the policies administered by OIE (this determination may result in a referral to another Rush department, business unit, or resource, or result in no action taken);
- (2) **Alternative Resolution.** Seek alternative or informal resolution that does not involve disciplinary action against a Respondent; or
- (3) **Investigation.** Initiate an investigation to determine if disciplinary action is warranted. The goal of an investigation is to gather all relevant facts; make factual determinations; determine whether there is a violation of this Policy; and if warranted, refer the investigative conclusion or finding for disciplinary action as appropriate.

In addition, OIE will, where applicable:

- Address any immediate concerns about the physical safety and emotional well-being of the parties;
- Explain the opportunity for support measures (see Appendix B);
- Notify the Complainant of the right to make a report (or decline to make a report) with law enforcement if the conduct is criminal in nature, and if requested, assist them with notifying law enforcement;
- Notify the Complainant of the availability of medical treatment to address any physical and mental health concerns and to preserve evidence; and/or
- Provide the Complainant with information about on and off campus resources.

## III. ALTERNATIVE RESOLUTION

Alternative resolution is a voluntary, remedies-based resolution designed to resolve a complaint without levying disciplinary action against a Respondent. Examples of remedies include, but are not limited to:

- Access to counseling services;
- Imposition of a "No-Contact Order;"
- Rescheduling of exams and assignments;
- Providing alternative course completion options;
- Change in class schedule, including the ability to drop a course without penalty or to transfer sections;
- Change in work schedule or job assignment;
- Change in student's campus housing;
- Assistance from Rush support staff in completing housing relocation;
- Limiting access to certain Rush facilities or activities pending resolution of the matter;
- Voluntary leave of absence;
- Providing an escort to assure safe movement between classes and activities;
- Referral for medical services;
- Providing academic support services; and/or
- Any other remedy which can be tailored to the involved individuals to achieve the goals of applicable policies.



Other potential remedies include targeted or broad-based educational programming or training, supported, voluntary direct confrontation of the Respondent and/or indirect action by OIE, a supervisor, or other official. Rush may offer mediation for appropriate cases but will not compel any party to engage in mediation, or to participate in any particular form of alternative resolution. The decision to pursue alternative resolution will be made when OIE has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation in alternative resolution is voluntary, and either party can request to end alternative resolution at any time.

## **IV. INVESTIGATION**

Where OIE's initial assessment concludes that the report, if substantiated, would rise to the level of violating this Policy, OIE will initiate an investigation in accordance with these procedures. The investigation will be thorough, impartial, and fair, and all individuals will be treated with sensitivity and respect. While Rush will seek to honor the wishes of a Complainant who prefers not to be involved in an investigation, Rush reserves the right to investigate all allegations that may result in a violation of this Policy.

An Investigator will investigate all complaints that, if found to be true, support a violation of this Policy. The investigation is designed to provide a fair and reliable gathering of the facts.

### **A. Procedural Steps**

An investigation is not necessarily a linear function. As such, the Investigator retains discretion to deviate from this general process description, as needed, while maintaining fairness throughout the investigative process. Investigations will generally occur as follows:

#### ***Step 1: Initial Complainant Interview(s)***

OIE will generally meet with a Complainant for an initial interview to learn more about the underlying allegation and the interests of the Complainant in pursuing formal action. This interview may be a part of, or in addition to, any meetings with the Complainant during the initial assessment.

#### ***Step 2: Notice to Respondent***

Once the initial interview has been completed, the Respondent will be notified in writing by OIE that an investigation has been initiated along with a brief summary of the underlying allegations. This opening letter will include as much information as is reasonably known to OIE, and may be updated as new allegations are uncovered/identified. The Respondent will be invited to an informational meeting to review the investigative process and the resources available to them throughout the process.

#### ***Step 3: Initial Respondent Interview(s)***

After receiving notice, the Respondent will be invited to complete an initial interview with an Investigator. The initial interview must generally be completed within seven (7) business days of the request or the investigation will move forward without the Respondent's initial interview.

#### ***Step 4: Investigation Stage***

The Investigator will conduct interviews with witnesses as necessary, collect and review documents and any other relevant evidence concerning the alleged conduct in question. The parties may provide any relevant information to the Investigator, including the names of witnesses to contact and/or documents or other evidence.

The Complainant and Respondent will have an equal opportunity to be heard by the Investigator, to submit information, and to identify witnesses who may have relevant information. Investigators will use their discretion to determine the relevance of proposed evidence and the necessity of interviewing witnesses.

In many cases, Investigators will have follow-up questions for the Complainant and Respondent after their initial interviews, and will provide each party the opportunity to respond to relevant information, facts and evidence provided by

the other party and witnesses. Each participant will be given the opportunity to complete any follow up interview requested by an Investigator. If the party declines to participate in a follow-up interview, the investigation will move forward without the follow up interview.

### ***Step 5: Investigator Determination***

The Investigator will consider all relevant information learned during the investigation and prepare an analysis and determination as to whether or not there is sufficient evidence to establish, by a preponderance of the evidence, that a violation of policy occurred, and the rationale for such determination. To reach this conclusion, the Investigator will review, consider and determine the weight and materiality of relevant evidence, and the credibility of relevant statements that go to the elements of a violation of this Policy, such as: consistency, corroboration, plausibility, motive or lack thereof, and demeanor.

Based on this analysis, the Investigator will determine the responsibility of the Respondent and whether, or not, a policy violation occurred. If a finding of a policy violation is made, the Final Report will be forwarded to the respective Sanctioning Official(s), for possible sanctions.

## **B. Additional Considerations Related to Investigations**

### *Investigators:*

OIE will designate an Investigator who has specific training and experience related to the investigation of allegations of harassment, discrimination, and sexual misconduct. The Investigator may be a Rush employee or an external Investigator. Any Investigator chosen to conduct an investigation must be impartial and free of any actual conflict of interest.

### *Conflicts of Interest:*

Either party may request a substitution of investigator in the case of an actual or apparent conflict of interest by notifying OIE within five (5) business days of being contacted by the OIE. OIE maintains discretion to consider and determine the existence of a conflict of interest, in which case it will substitute a new investigator.

### *Timeframe for Resolution:*

Rush will make every effort to resolve all reports in a prompt and timely manner, and endeavor to resolve complaints within sixty (60) calendar days upon determination to investigate a report. This time frame may be extended as necessary to ensure the integrity and completeness of the investigation. Reasonable reasons for delay may include: to comply with a request by external law enforcement, to accommodate the availability of witnesses, to account for University breaks or vacations, to account for complexities of a case including the number of witnesses and volume of information provided by the parties, or for other reasonable reasons.

Rush's failure to meet this timeframe will not serve as grounds for dismissing any matter, nor shall it limit Rush's ability to complete an investigation, issue findings, impose sanctioning outcomes, corrective actions, disciplinary actions, or limit Rush's ability to take any other action to address or respond to a complaint.

### *Time Extensions:*

Extension of a deadline or Investigator directive may be granted by the Investigator for reasonable or exigent circumstances. Parties may submit those requests at any time in writing to the Investigator, who will have sole discretion to grant or deny the extension. The Investigator may require support or documentation to verify the circumstance on which the request is based.

### *Privacy:*

All reasonable measures will be taken to protect the privacy of the parties and witnesses, and to reduce disruption to affected departments, programs and business units to the extent possible. Confidentiality in this process, however, is not guaranteed, as OIE may engage those "with a need to know" to execute its responsibilities. Additionally, OIE will provide de-identified information pursuant to state and federal legal reporting requirements.

### *Multiple Reports:*

The Investigator has the discretion to consolidate multiple reports against a Respondent into one investigation if the reports share the same nexus of material facts related to each incident.

### *Duty to Not Cause Undue Delay in Investigation*

To help ensure that the investigation can be completed in a timely manner, Rush has established time frames for each component of the investigation. The time frames do not change the fact that Complainants, Respondents, and Witnesses have the right to determine whether, and to what extent, they will participate in the investigation. An investigation will move forward at the time limit for each stage of the investigation irrespective of whether the noticed individual completes the identified component of the investigation.

### *Recordings:*

The recording of any meeting conducted as part of an investigation under this Policy is prohibited. Violations of this provision will be addressed under the Rush Code of Conduct.

## **C. Limitations on Certain Evidence**

Some evidence is inherently irrelevant, prejudicial, biased, or otherwise inappropriate for consideration in an investigation. As such, OIE generally limits the admission of the following categories, subject to the circumstances described below. Any party seeking to introduce such information should bring this information to the attention of the Investigator at the earliest opportunity. The Investigator may choose to consider this information with appropriate notice to the parties. Where sufficient informational foundation exists, the Investigator will assess the relevance, form, and reliability of the information.

### *Character Witnesses:*

Witnesses must generally have observed the acts in question or have information relevant to the incident and cannot participate in an investigation solely to speak about an individual's character.

### *Prior Allegations/Pattern of Conduct:*

In gathering the facts, the Investigator may consider prior allegations of, or findings of responsibility for, similar conduct by the Respondent to the extent such information is relevant. Where there is evidence of a pattern or conduct similar in nature by the Respondent, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant and probative in the investigation. The determination of relevance will be based on an assessment of whether:

- The previous incident was substantially similar to the present allegation;
- The information indicates a pattern of behavior and substantial conformity with that pattern by the Respondent; or
- The Respondent was subject to a previous credible allegation and/or previously found responsible for a Policy violation.

## **V. SANCTIONING**

For complaints against **faculty, staff or non-students**, the Determination Letter and Final Report will be shared with the Respondent's direct supervisor and/or other responsible administrator who, in consultation with Human Resources, shall have disciplinary authority to serve as the Sanctioning Official(s) and impose appropriate sanction(s).

For complaints against **students**, the investigative findings will be referred to the Dean of the College who shall have disciplinary authority to serve as the Sanctioning Official(s) and impose appropriate sanction(s) in consultation with the Associate Provost for Student Affairs.

**Possible Sanctions:** Sanctions may include, at a minimum, a verbal warning, and at a maximum, termination or expulsion from Rush. Violations of this Policy may result in sanctions, which can include, but are not limited to:

- Verbal warning
- Written warning
- Disciplinary hold on academic and/or financial records
- Performance improvement/management process
- Required counseling
- Required training or education
- Campus access restrictions
- No trespass order (with respect to campus locations)
- No contact directive (with respect to an individual)
- Loss of privileges
- Loss of oversight, teaching or supervisory responsibility
- Probation
- Demotion
- Loss of pay increase
- Transfer (employment)
- Revocation of offer (employment or admissions)
- Disciplinary suspension
- Suspension with pay
- Suspension without pay
- Expulsion
- Degree revocation
- Termination of employment
- Revocation of tenure
- Termination of contract (for contractors)

Rush may assign other sanctions as appropriate depending on the violation.

## **VI. APPEALS**

Mere disagreement with the investigation finding(s) is not grounds for appeal. Any party may appeal the determination of an investigation **only** on the following grounds:

1. There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the Investigator, affected the outcome
2. There was a procedural error significant enough to affect the outcome
3. There was a conflict of interest or bias on the part of the Investigator

This section, and the process herein, addresses appeals related to the investigation itself and its findings. Any appeals of resulting sanctions should follow the appropriate policies and processes for the individuals involved. E.g, the Rush Employee Appeals process, Medical Staff Bylaws, etc.

### ***Method of Appeal***

Appeals of investigation findings must be filed with the Appeals Official within seven (7) business days of receipt of the outcome. The appeal must be in writing and contain the following:

- Name of the parties
- A detailed statement of the grounds for the appeal including the specific facts, circumstances, and argument in support of it, and
- Requested action, if any

Once an appeal is submitted, the non-appealing party will be notified of the appeal in writing. The non-appealing party will be granted an opportunity to respond to the Appeal.

### ***Resolution of the Appeal***

The Appeals Official will generally resolve the appeal within twenty-one (21) business days of receiving it and may take any and all actions that they determine to be in the interest of a fair and just decision. The parties will be

notified in writing if the Appeals Official's decision will take longer than twenty-one (21) calendar days. The decision of the Appeals Officer is final.

The Appeals Official shall issue a short and plain written statement of the resolution of the appeal, including any changes made to the Investigator's previous written determination and/or the sanctions and remedial measures imposed. The written statement shall be simultaneously provided to the Complainant, Respondent, and OIE within three (3) days of the resolution.

### ***Appeal Officials***

- For staff Respondents: Chief Human Resources Officer
- For faculty Respondents: Dean or designee
- For physician Respondents: Chairperson or President of the Medical Staff
- For student Respondents: Provost or designee

## **APPENDIX A: RIGHTS OF PARTIES**

Throughout their involvement in OIE's process, the consideration of discipline, and/or appeal proceedings, the Complainant and Respondent have the rights and responsibilities listed below.

- The right to be informed of the relevant Rush policies that are involved in the process.
- The right to a prompt and thorough, fair and equitable investigation.
- The right to object to the participation of the assigned Investigator, a Sanctioning Official, or Appeals Official based on a conflict of interest or demonstrable significant bias.
- The right to request reasonable assistance and support (i.e., for disability, language barriers, or location/proximity concerns) to ensure full participation in the process. Requests must be received in a timely manner, no less than 24 hours before any meeting time.
- The right to privacy throughout the process to the extent possible, except for Rush administrators that legitimately need to know status of the process.
- The right to be free from intimidation and retaliation and, upon request, to have reasonable steps taken by Rush to prevent unnecessary or unwanted contact with involved parties.
- The right to written notification of an investigation resulting from a report concerning a potential violation. This notice will include the following:
  - A general statement concerning the provision of policy that has allegedly been violated;
  - The consequences if a party chooses not to participate in the investigative process; and
  - A copy of his or her rights and responsibilities.
- The right to share information in support of his/her own perspective during the investigative process.
- The right to provide the names of other individuals, during the investigative process, who have information directly relevant to the incident.
- The right to seek the advice and assistance of an attorney at his or her own expense.

## **APPENDIX B: SUPPORTIVE MEASURES**

Supportive measures are individualized, non-punitive services that aim to ensure persons can continue to engage in their education and work, to the extent possible, following a report of an alleged violation of this Policy and during the pendency of an investigation. Reasonable supportive measures are available to both the Complainant and Respondent and are free of charge. They may not be available or reasonable based on fact-specific circumstances, and the measures needed may change over time. Supportive measures include:

- An explanation of the procedural options, including alternative resolution, investigation, corrective actions, and disciplinary actions;
- Discuss the parties' expressed preference for manner of resolution and any barriers to proceeding;
- Explain Rush's prohibition on retaliation;
- Counseling and class-related accommodations;
- Safety-related accommodations; and
- Mutual Contact restrictions, except where job duties require employees to work together and there are no safety concerns or allegations of prohibited harassment or sexual misconduct.

## **APPENDIX C: CONFIDENTIAL RESOURCES**

Confidential resources are available to Complainants, Respondents, and Reporters via the following services:

*The Rush Wellness Assistance Program*

(Powered by Perspectives, LTD)

833/304-3627

<https://insiderush.rush.edu/wellness>

*Resilience (formerly Rape Victim Advocates)*

180 N. Michigan Ave., Suite 600

Chicago, IL 60601

312/443-9603

These resources do not report any information about an incident to any Rush personnel without a victim's permission. Off-campus counselors and health care providers will also generally maintain confidentiality and not share information with Rush unless the victim requests the disclosure and signs a consent or waiver form. However, these resources may have reporting obligations under state or federal law. For example, healthcare providers and certain other individuals are required to notify law enforcement when a victim seeks treatment for injuries related to a violent crime, including sexual assault. Similarly, all persons are required to notify law enforcement when they receive a report of sexual abuse of a minor.



## **APPENDIX D: IMMEDIATE & ONGOING ASSISTANCE**

If you believe you are the victim of Sexual Assault, Domestic Violence, or Dating Violence, get to safety and do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. For those who believe that they are victims of Sexual Assault, Domestic Violence, or Dating Violence, Rush recommends the following:

- Get to a safe place as soon as possible.
- Try to preserve all physical evidence of the crime—avoid bathing, using the toilet, rinsing one’s mouth or changing clothes. If it is necessary, put all clothing that was worn at the time of the incident in a paper bag, not a plastic one.
- Do not launder or discard bedding or otherwise clean the area where the assault occurred - preserve for law enforcement
- Preserve all forms of electronic communication that occurred before, during, or after the assault
- Contact law enforcement by calling 911.
- Get medical attention - all medical injuries are not immediately apparent. This will also help collect evidence that may be needed in case the individual decides to press charges. Local hospitals have evidence collection kits necessary for criminal prosecution should the victim wish to pursue charges. Take a full change of clothing, including shoes, for use after a medical examination.
- Contact a trusted person, such as a friend or family member for support.
- Talk with a professional licensed counselor, Rush chaplain, or health care provider who can help explain options, give information, and provide emotional support.
- Make a report to the Title IX Coordinator or OIE.
- Explore this Policy and avenues for resolution.

If you suspect that you may have been drugged, inform medical personnel or law as soon as possible so they can attempt to collect potential evidence (e.g., from the drink, through urine or blood sample).

It is also important to take steps to preserve evidence in cases of Stalking, to the extent such evidence exists. Such evidence is more likely to be in the form of letters, emails, text messages, electronic images, etc. rather than evidence of physical contact and violence. This type of non-physical evidence will also be useful in all types of Sexual Harassment investigations.

Once a report of Sexual Assault, Domestic Violence, Dating Violence, or Stalking is made, the victim has several options such as, but not limited to:

- obtaining Supportive Measures
- contacting parents or a relative
- seeking legal advice
- seeking personal counseling (always recommended)
- pursuing legal action against the perpetrator
- filing a Formal Complaint
- requesting that no further action be taken

Rush Campus Security will assist a victim in obtaining a protective order.

As discussed in Appendix D, some of these resources are subject to mandatory reporting requirements.

*Rush Emergency Room*  
1653 West Congress Parkway  
Chicago, IL 60612  
312/942-6428

*Rush Oak Park Hospital Emergency Room*  
520 S. Maple Ave  
Oak Park, IL 60304  
708-660-6000

*Rush Campus Security*  
312/942-5678 (24 hours)

*Rush Oak Park Hospital Security Department*  
708-660-2211

*The Rush Wellness Assistance Program*  
(Powered by Perspectives, LTD)  
833/304-3627  
<https://insiderush.rush.edu/wellness>

*Chicago Police Department*  
In case of emergency: Dial 911  
12th District Police Department  
1412 S. Blue Island  
Chicago, IL 60608  
312/746-8396  
[CAPS012District@chicagopolice.org](mailto:CAPS012District@chicagopolice.org)

*Oak Park Police Department*  
In case of emergency: Dial 911  
123 Madison St.  
Oak Park, IL 60302  
708-386-3800

*City of Chicago Domestic Violence Helpline*  
877/863-6338 (24 hours)

*Resilience (formerly Rape Victim Advocates)*  
180 N Michigan Ave., Suite 600  
Chicago, IL 60601  
312/443-9603

*Chicago Rape Crisis Hotline*  
1 N. LaSalle St., Suite 1150  
Chicago, IL 60602  
888/293-2080

*National Domestic Violence Hotline*  
800/799-7233 (24 hours)

*National Sexual Assault Hotline (RAINN)*  
800/656-4673 (24 hours)

*YWCA Rape Crisis Hotline*  
888/293-2080 (24 hours)

The law enforcement agencies listed above are available for emergency response, facilitating medical transport, investigating incidents of a criminal nature, referrals, and preserving evidence. Rush Campus Security is required to report potential violations of this Policy to the Title IX Coordinator, as well as to report incidents of Sexual Assault and other criminal acts of a serious nature to the Chicago Police Department.

The medical service providers listed above are available for treatment of injuries, preventative treatment for sexually transmitted diseases, other health services, and consultations. Rush encourages individuals who have been sexually assaulted to undergo a health assessment by a sexual assault nurse examiner (SANE) as soon as possible. A SANE is a registered nurse specially trained to provide care to sexual assault patients. The SANE conducts medical forensic examinations and can serve as an expert witness in a court of law. If a victim decides to have a SANE exam, the victim can still choose whether or not to make a police report. Medical treatment and a forensic examination may aid in the preservation of relevant evidence.

*Ongoing Assistance*

The following resources are available for ongoing assistance, regardless of whether the victim chooses to file a formal complaint, participate in the formal resolution process, or a criminal process.

*The Rush Wellness Assistance Program*

(Powered by Perspectives, LTD)

833/304-3627

<https://insiderush.rush.edu/wellness>

*Resilience (formerly Rape Victim Advocates)*

180 N Michigan Ave., Suite 600

Chicago, IL 60601

312/443-9603

*Chaplaincy Services*

511A Kidston House

1653 W. Congress Parkway

Chicago, IL 60612

312/942-5826

## **APPENDIX E: RECORDKEEPING**

OIE will document each report and request for assistance in resolving a report and will review and retain copies of all reports generated as a result of investigations under this Policy. These records will be kept confidential to the extent permitted by law.

Records will be maintained for a period of no less than seven (7) years following the most recent finding of violation.

Rush will retain, as necessary, appropriate statistical information related to policy violations in order to comply with applicable aggregated reporting requirements under law.

### *Student Record Requests*

Numerous members of the Rush faculty and staff receive requests from students or former students to complete forms that include a request for information about student conduct records at Rush. These forms typically serve the following purposes: Transfer to another institution; Graduate/professional/law school admission; Admission to the Bar (by state); Security clearances for employment (typically federal), etc. Access and release of records of student conduct proceedings are governed by FERPA and other applicable privacy laws. Rush recognizes the shared interest of the greater community in the resolution of matters arising under this Policy.