

RUSH UNIVERSITY SYSTEM for HEALTH

Resolution Process for Sex-Based Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking Involving Non-Students

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INVESTIGATION AND ADJUDICATION PROCEDURES

I. SCOPE

These procedures explain the Office of Institutional Equity's ("OIE") process for receiving, assessing, investigating, and adjudicating reports under Rush's Policy Prohibiting Discrimination, Harassment, and Sexual Harassment (*the Policy*). This resolution process, the *Resolution Process for Sex-Based Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking Involving Non-Students*, applies to complaints of sex-based harassment, sexual assault, domestic violence, dating violence, stalking, sexual exploitation, sex discrimination (including sex discrimination based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity) involving non-students (where neither the Complainant nor the Respondent are students) and related retaliation (collectively, Prohibited Conduct). This resolution process shall be utilized if the complaint involves employees, non-employed private providers, faculty, patients, third parties with a contractual or business associate relationship or partnership with Rush, volunteers and guests or other members of the Rush community who are non-students (hereinafter "Rush community members"). Complaints of this nature involving a student Complainant or student Respondent will be addressed under *The Resolution Process for Sex-Based Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking Involving Students*. If an individual is both a student and an employee of Rush, OIE will conduct a fact-specific inquiry and exercise its discretion to determine which resolution process to utilize based on the circumstances in which the Prohibited Conduct occurred, the relationship and the role of the parties, and the primary role of the Respondent (e.g. student or employee) in the context of the reported Prohibited Conduct. Nothing in these procedures shall limit the ability of Rush managers or administrators to appropriately and reasonably stop and address inappropriate behavior occurring in the work environment appropriately and reasonably.

For purposes of these procedures:

- "Complainant" refers to an individual student, employee, visitor, guest, or program participant who is reported to have been the subject of conduct that could constitute Prohibited Conduct. Complainant includes a person other than a student or employee who is reported to have been subjected to conduct that could constitute Prohibited Conduct and who was participating or attempting to participate in the Rush's education program or activity at the time of the alleged conduct. Rush's Title IX Officer may also file a complaint on behalf of aggrieved or impacted members of the Rush community.
- "Respondent" refers to a person who is reported to have engaged in Prohibited Conduct in violation of the *Policy*.
- "Reporter" refers to a person other than the individual who reportedly experienced Prohibited Conduct who is aware of conduct arising under *the Policy* and reports the conduct to OIE.
- Education Programs or Activities refers to all of Rush's operations, including, but not limited to, in-person and online educational instruction, employment, research activities,

extracurricular activities, dining services, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by Rush. It also includes off-campus locations, events, or circumstances over which Rush exercises substantial control over the Respondent and the context in which the Prohibited Conduct occurs and any building owned or controlled by a student organization that is officially recognized by Rush. *The Policy* may also apply to instances in which the conduct occurred outside of Rush's education program or activity, but where Rush otherwise regulates the conduct, the conduct has or could have a continuing impact within the education program or activity, the conduct could contribute to a hostile environment or otherwise interfere with a student's access to education or an employee's access to employment, or the conduct may have the effect of posing a serious threat to the Rush community. This includes conduct that occurs off campus, outside of working hours, or on social media.

- "Supportive Measures" are individualized measures offered as appropriate and as reasonably available, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to: (1) restore or preserve that party's access to Rush's educational programs or activities, including measures that are designed to protect the safety of the parties or Rush's educational environment; or (2) provide support during the resolution process (alternative resolution or investigation).
- "Sanctioning Official" refers to the individual that is responsible for issuing a sanction, or sanctions, following a finding of responsibility for a policy violation.

II. INQUIRY

Upon receipt of a report, OIE will conduct an initial inquiry, which is an initial assessment of the underlying concerns in the report. OIE will seek to speak to the Complainant and/or Reporter during the initial inquiry, and may, in its discretion, speak to other witnesses and/or the Respondent. OIE will not, however, speak to the Respondent without first informing the Complainant. The goal of this inquiry is to gather sufficient information to provide an informed and coordinated response to reports of Prohibited Conduct administered by OIE.

The inquiry 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 Rush community; a Complainant's expressed preference for resolution, if any; the opportunity for alternative resolution; the necessity for reasonably available supportive measures or modifications to the work environment; 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 to respect the privacy of the parties, OIE may, as needed, consult with managers or other department administrators or leadership regarding the alleged conduct to inform OIE's initial inquiry. As part of this inquiry and to determine next steps, OIE may:

- **Referral/dismissal** Determine that the reported concern does not meet the criteria for a possible violation of *the Policy* (this determination may result in a referral to another Rush department, business unit, or resource, or result in no action taken);

- **Alternative Resolution** Seek alternative or alternative resolution that allows Rush to take action to address the reported conduct, which could include the imposition of supportive measures only or other action that typically does not involve disciplinary action against a respondent; or
- **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 *the Policy*; and if warranted, refer to the investigative conclusion or finding for sanctioning 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 availability of reasonably supportive measures;
- 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. ADMINISTRATIVE LEAVE

In the case of a Respondent who is a non-student employee, and in its discretion, Rush may place the Respondent on administrative leave at any time after receiving a report of Prohibited Conduct, including during the pendency of the investigation and adjudication processes.

For all other Respondents, including independent contractors and guests, Rush retains broad discretion to prohibit such persons from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report under *the Policy*.

IV. IMMEDIATE AND ONGOING ASSISTANCE

Anyone who experiences Prohibited Conduct should get to safety and do everything possible to preserve evidence. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Rush recommends the following steps:

- Contact law enforcement by calling 911.
- 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 and preserve the area for law enforcement.
- Preserve all forms of electronic communication that occurred before, during, or after the assault.

- Get medical attention. Not all medical injuries are 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 Officers.
- Explore *the Policy*.

If there is a concern that an individual may have been drugged, inform medical or law enforcement personnel as soon as possible so they can try to collect potential evidence (e.g., from the drink, or through a 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 be useful in all types of Prohibited Conduct investigations.

In response to an incident of Prohibited Conduct, there are several options, including:

- Obtaining Supportive Measures
- Contacting parents or a relative
- Seeking legal advice
- Seeking personal counseling (always recommended)
- Pursuing legal action against the perpetrator
- Making a complaint to OIE
- Reporting to law enforcement
- Requesting that no further action be taken

OIE and/or Rush Campus Security will assist a victim in obtaining a protective order.

The Victims' Economic Security and Safety Act (VESSA) provides employees who are victims of domestic violence, sexual violence, gender violence, or any other crime of violence, and employees who have a family or household member who is a victim of such violence, with unpaid leave, reasonable accommodations, and protections from discrimination and retaliation. The leave of absence may be used by the employee to seek or receive medical care or counseling, obtain legal assistance, conduct safety planning or relocate, among other reasons, to recover from the violence. Eligible employees are required to provide their immediate manager with at least 48 hours' advance notice of the need for leave, unless such notice is not practicable. All Rush VESSA leaves are administered by AbsenceOne. For more information regarding eligibility and enrollment, employees should contact AbsenceOne at (866) 648-4719.

Please refer to "Section VII Reporting Options" of *the Policy* for on and off campus resources for immediate and ongoing assistance.

V. SUPPORTIVE MEASURES

Supportive measures are individualized services that aim to ensure parties can continue to engage in their work, to the extent possible, following a report of a policy violation and during the pendency of an investigation.

Reasonable supportive measures are available to both the Complainant and Respondent. They may not be available or reasonable based on fact-specific circumstances, and the measures needed may change over time. Rush may, as appropriate, modify or terminate supportive measures at the conclusion of the alternative resolution process or investigation or may elect to continue the supportive measures. Supportive measures can include:

- An explanation of the procedural options, including alternative resolution, investigation, corrective actions, and disciplinary actions;
- Discussion of the complainant's expressed preference for manner of resolution and any barriers to proceeding;
- Explanation of Rush's prohibition on retaliation;
- Explanation of the role of an Advisor;
- Explanation of the availability of Immediate & Ongoing Assistance and Confidential Resources;
- Counseling;
- Safety-related accommodations; and/or
- Contact restrictions, except where job duties require employees to work together and there are no safety concerns.

Parties may seek a modification or reversal of a decision to provide, deny, modify or terminate any supportive measure. Supportive measures implemented may be appealed in writing to the Senior Program Manager for Compliance (OIE) or their designee, who will have sole discretion to modify supportive measures.

VI. COMPLAINT

The investigation process may be initiated through a verbal or written request from a Complainant. The request may be made to the Title IX Officers. The Complainant may also contact the Title IX Officers directly for assistance in making a Complaint. Where a Complainant makes a complaint and the reported conduct falls within the scope and jurisdiction of the *Policy*, OIE must pursue an investigation, or with the agreement of the parties and OIE, alternative resolution.

A complaint can be made, orally or in writing, to:

Rush's Title IX Officer

Nancee Hofheimer

Nancee_B_Hofheimer@rush.edu

(312) 942-2104

Rush's Deputy Title IX Officer

Catherine Howlett
Catherine_C_Howlett@rush.edu
(312) 563-1489

OIE Administrative Coordinator
Kim Luong
Ngan_K_Luong@rush.edu
(312) 563-4699

Dismissal of a Complaint

OIE may dismiss a complaint of Prohibited Conduct involving an employee when:

- OIE is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not employed by Rush;
- The Complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Officer declines to initiate a complaint, and OIE determines that without the Complainant's withdrawn allegations the remaining alleged misconduct, if any, would not constitute Prohibited Conduct, even if substantiated; and/or
- OIE determines that the conduct alleged in the complaint, even if substantiated, would not constitute Prohibited Conduct.

Dismissal of a complaint may be appealed in writing to the Senior Program Manager for Compliance (OIE) or their designee.

Withdrawal of Complaint

A Complainant may withdraw their complaint, at which point OIE will evaluate whether to move forward with the investigation or pursue other appropriate action.

OIE-Initiated Complaint

Rush endeavors to respect the wishes of a Complainant to not pursue an investigation. If a Complainant requests that their name or other personally-identifiable information not be shared with a Respondent, that no investigation into a particular incident be pursued, and/or that no disciplinary action be taken against the Respondent, Rush will balance this request against its commitment to a safe, non-discriminatory learning, living, and working environment for all community members (including for the Title IX Officers) and will take into account the Complainant's articulated concerns, the safety of the campus community, fairness to all individuals involved, and Rush's obligations under Title IX. As part of the Inquiry, the Title IX Officers will discuss any concerns with the Complainant and seek to address and remedy barriers to reporting based upon concerns about retaliation or questions about procedural options and potential outcomes.

In evaluating the appropriate manner of resolution, including whether to pursue a Complaint in the absence of the Complainant's request, or a withdrawal by the Complainant of their complaint, the Title IX Officers will consider a range of factors, including:

- The totality of the known circumstances
- The Complainant's request not to proceed with initiation of a complaint
- The Complainant's reasonable safety concerns regarding the initiation of a complaint
- The risk that additional acts of sex discrimination or sex-based harassment would occur if a complaint is not initiated
- The severity of the alleged Prohibited Conduct, including where the conduct, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the conduct and prevent its recurrence
- The respective ages and roles of the Complainant and Respondent, including whether the Respondent is a Rush employee
- The nature and scope of the alleged conduct, including whether the reported conduct involves a pattern, ongoing conduct, or conduct reported to have impacted multiple individuals
- Whether Rush possesses other means to obtain relevant evidence
- Fairness considerations for both the Complainant and the Respondent
- Whether Rush could end the Prohibited Conduct and prevent its recurrence without pursuing a formal resolution process
- Rush's obligation to provide a safe and non-discriminatory environment
- Any other available and relevant information

Where possible, based on the facts and circumstances, Rush will take all reasonable steps to respond to the report consistent with the Complainant's requested course of action, but its ability to do so may be limited based on the reported information. If Title IX Officers determine that the reported conduct presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as reported prevents Rush from ensuring equal access on the basis of sex to its education program or activity, the Title IX Officers may initiate a Complaint. Where the balance of factors requires the Title IX Officers to pursue a Complaint on behalf of the Complainant, EIC will inform the Complainant in writing prior to doing so and will appropriately address reasonable concerns about the safety of the Complainant or other individuals, including by providing supportive measures.

Regardless of whether a Complaint is initiated, Rush will take other prompt and effective steps, in addition to individual supportive measures and remedies, designed to ensure that Prohibited Conduct does not continue or recur within Rush's education program or activity.

VII. ALTERNATIVE RESOLUTION

OIE retains sole discretion as to the appropriateness 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. Alternative resolution is a voluntary, remedies-based resolution designed to resolve a complaint without completing the full investigation process. Examples of alternative resolution remedies include, but are not limited to:

- Mandatory counseling services
- Imposition of a “No-Contact Order”
- Change in work schedule or job assignment
- Limiting access to certain Rush facilities or activities pending resolution of the matter.
- Voluntary leave of absence
- Providing an escort to ensure safe movement about the Rush campus
- Referral for medical services
- Any other remedy which can be tailored to the involved individuals to achieve the goals of Rush’s Policy Prohibiting Discrimination, Harassment, and Sexual Harassment

Where there is an admission or agreement by the Respondent, alternative resolution can include agreed-upon disciplinary action.

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 administrator, or another Rush 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. Participation in alternative resolution is voluntary, and either party can request to end alternative resolution at any time.

The specific manner of any alternative resolution process will be determined by the parties and OIE, in consultation together. Alternative resolution is not appropriate when Rush determines that the reported conduct would present a future risk of harm to others. Prior to commencing the alternative resolution process agreed upon, OIE will provide notice to the parties that:

- Describes the allegations and requirements of the alternative resolution process to be utilized;
- Identifies the individual responsible for facilitating the alternative resolution (who may be the Title IX Officer, another Rush official, or a suitable third-party);
- Details the potential terms that may be requested or offered, including notice that the agreement is only binding on the parties;
- Explains that, prior to agreeing to a resolution, any party has the right to withdraw from the alternative resolution process and request to initiate or resume the investigation process;
- Explains that participating in alternative resolution and/or reaching a final resolution will preclude a party’s ability to resume the investigation and adjudication of the allegations at issue in the complaint; and
- Explains any other consequences of participation in the alternative resolution process, including a description of records generated, maintained, and/or shared.

After receiving notice specified in this paragraph, each party must voluntarily provide written consent to OIE before the alternative resolution may commence.

During the pendency of the alternative resolution process, the investigation and adjudication processes that would otherwise occur are stayed and all related timeframes and deadlines are suspended.

If the parties reach a resolution through the alternative resolution process, and OIE agrees that the resolution is appropriate, OIE will draft a written agreement, which must be signed by the parties. Once both parties and a representative from OIE sign the resolution, the resolution is final, and the allegations addressed by the resolution are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by Rush, except as otherwise provided in the resolution itself. The resolution may only be reopened upon a showing that a party induced the resolution by fraud, misrepresentation, or other misconduct, or where required to avoid a manifest injustice to either party or to Rush.

Absent extension by OIE, any alternative resolution process must be completed within twenty-one (21) calendar days of the written notice to the parties. If the alternative resolution process does not result in a resolution within twenty-one (21) calendar days, and absent an extension by OIE, the alternative resolution process will be deemed terminated, and the complaint will be resolved pursuant to the investigation and adjudication procedures described herein.

OIE may, in its discretion, decline the parties' request for alternative resolution when such an agreement would be otherwise inappropriate.

VIII. ADVISORS

For any reports alleging quid pro quo or hostile environment sexual harassment, sexual assault, dating violence, domestic violence, or stalking, the Complainant and Respondent have the right to be assisted by an advisor of their choice during the reporting, investigation, and adjudication process. The advisor may be, but is not required to be, an attorney. The advisor may accompany the Complainant or Respondent to any meeting or proceeding during the investigation. Anyone who serves as an advisor should plan to make themselves available throughout the processes outlined in this Resolution Procedure.

Expectations for Advisors

- Individuals serving as an advisor must review and comply with the *Policy* and this Resolution Procedure.
- Advisors may be present at any meeting or proceeding and may consult directly with the individual they are advising in a way that does not disrupt or delay any proceeding.
- Advisors may not be a witness or otherwise actively participate in any proceeding.
- Advisors may not attend a proceeding without the person they are advising.
- Advisors will not conduct questioning on behalf of a party.
- Advisors who act contrary to these guidelines, or reasonable decorum guidelines set by OIE, or otherwise disrupt any proceeding may be excluded from that proceeding and/or future proceedings.

IX. INVESTIGATION

Where OIE's initial inquiry concludes that the report, if substantiated, would constitute Prohibited Conduct, and the report does not involve a student as a Complainant or Respondent, OIE will initiate an investigation in accordance with this Resolution Procedure. The investigation will be thorough and impartial, and all individuals will be treated with sensitivity and respect. Rush will treat both the Complainant and the Respondent equitably. While Rush will seek to honor the wishes of a Complainant who requests not to be involved in an investigation, Rush may investigate all allegations involving non-students that may result in a violation of *the Policy*.

An investigator will investigate all complaints that, if true as reported, support a potential violation of the Policy. The investigation is designed to provide a fair and reliable gathering of the facts.

An investigator will presume the Respondent is not responsible for the alleged misconduct until a determination is made at the end of the resolution procedure that there is sufficient information, by a preponderance of the evidence, to support a finding of responsibility.

A. Procedural Steps

An investigation is not necessarily a linear function. As such, the investigator retains discretion to determine the order of investigative steps, 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(s) 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 inquiry.

Step 2: Notice to the Parties

Once the initial Complainant interview has been completed, the Complainant and Respondent will be notified in writing by OIE that an investigation has been initiated along with a summary of the underlying allegations (including the identities of the parties, the reported conduct, and the date and location of the reported conduct, if available) and identification of potential policy violations. This notice will include as much information as is reasonably known to OIE and will be updated if new allegations are uncovered/identified. The notice will also include: a link to these Resolution Procedures, a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will not occur until the conclusion of this Resolution Procedure, a statement that retaliation is prohibited, and a statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence.

Step 3: Initial Respondent Interview(s)

After receiving notice, the Respondent will be invited to complete an initial interview with an investigator, during which the investigator will review the investigative process and the resources available to the Respondent throughout the investigation. The initial interview must generally be

completed within seven (7) business calendar 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 reported conduct. The parties may provide any relevant information to the investigator, including the names of witnesses who may have relevant information and/or documents or other evidence to review.

The Complainant and Respondent will have an equal chance to be heard by the investigator, submit information, and 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 party 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: Evidence Review

At the conclusion of the fact-gathering, the investigator will give both parties an equal opportunity to access the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. Upon either party's request, after reviewing the accurate description of evidence, the investigator will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence.

Each party will have ten (10) calendar days to submit a written response to the investigators, which the investigators will consider prior to reaching a final determination. In the written submission, the parties may offer additional comment or feedback on the facts as gathered, clarify information previously shared, suggest additional witnesses, suggest additional lines of questioning or inquiry, or identify any other relevant information or evidence to assure the thoroughness, sufficiency and reliability of the investigation.

Unauthorized disclosure of information and evidence obtained solely through this Resolution Procedure is not permitted and will be addressed pursuant to applicable Rush policy.

Step 6: Investigator Determination

The investigator will consider all relevant information learned during the investigation and prepare an analysis as to whether there is sufficient evidence to establish, by a preponderance of the evidence, that a violation of the *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 the *Policy*, such as: consistency, corroboration, plausibility, motive or lack thereof, and

demeanor. Credibility determinations will not be based on a person's status as complainant, respondent, or witness. The investigator will consider both inculpatory and exculpatory evidence.

Based on this analysis, the investigator will determine the responsibility of the Respondent and whether a policy violation occurred. If a finding of a policy violation is made, the investigation report will be forwarded to the designated Sanctioning Official(s) for possible sanctions.

Step 7: Notice of Outcome

OIE will provide the parties with simultaneous written notice of the outcome in writing. The notice of outcome will include information about the sanction imposed, if any, and the procedures and permissible bases for appeal.

OIE will also notify the parties of any changes to the outcome, and when such changes, if any, become final.

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 sex-based harassment, sexual assault, domestic violence, dating violence, or stalking. The investigator may be a Rush employee or an external professional. Any investigator chosen to investigate must be impartial and free of any actual conflict of interest or bias. The investigator will receive annual training as required by Title IX and the Clery Act.

Conflicts of Interest:

Either party may request a substitution of an investigator in the case of an actual or apparent conflict of interest or demonstrated bias by notifying OIE within five (5) business calendar days of being contacted at the outset of an investigation. OIE maintains discretion to consider and determine the existence of a conflict of interest or bias, 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 after OIE's determination to investigate a report. This time frame may be extended for good cause as necessary to ensure the integrity and completeness of the investigation. Good cause for extension may include: to comply with a request by external law enforcement, to accommodate the availability of witnesses, to account for Rush 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 appropriate reasons. OIE will notify the parties in writing of any extension of the timeframes for good cause, the reason for the extension and the length of the extension.

Investigations that exceed 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.

Apart from Rush managers who are required to participate in an investigation, 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, provided that there is sufficient available information to allow Rush to do so.

Time Extensions:

Extension of a deadline or investigator directive may be granted by the investigator for good cause based on 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:

Rush takes reasonable steps to protect the privacy of the parties and witnesses under the Policy, provided that the steps do not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. Participants in a process under the Policy are prohibited from the unauthorized disclosure of information and evidence obtained solely through the resolution process.

All reasonable measures will also be taken to reduce disruption to affected departments, programs and business units to the extent possible. Confidentiality in this process, however, is not guaranteed, as OIE will 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 more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex-based harassment, sexual assault, domestic violence, dating violence, stalking, or retaliation arise out of the same facts or circumstances. If multiple reports are consolidated and any party is a student, this Resolution Procedure for Students will be applied.

Recordings:

Recording of any meeting conducted as part of these resolution procedures by a party is prohibited. Violations of this provision will be addressed under the Rush Code of Conduct.

Recordkeeping:

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

Records will be maintained for at least seven (7) years following the most recent violation finding.

Rush will retain, as necessary, appropriate statistical information related to policy violations 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.

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.

C. Limitations on Certain Evidence

The investigator will consider relevant evidence only. Relevant evidence includes information that is related to the report of Prohibited Conduct such that it may aid in showing whether the reported Prohibited Conduct occurred or may aid the investigator in determining whether the reported Prohibited Conduct occurred.

Some evidence is inherently irrelevant, prejudicial, biased, or otherwise inappropriate for consideration in an investigation. As such, OIE generally limits consideration of the following categories of evidence, subject to the circumstances described below. Any party seeking to introduce such information should bring it to the investigator's attention as soon as possible. Where sufficient informational foundation exists, the investigator will assess the relevance, form, and reliability of the information.

Privileged or Confidential Evidence:

Evidence protected under a privilege as recognized by federal or state law or evidence provided to a confidential employee will not be considered. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness will not be considered.

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 Sexual History:

In general, a Complainant's prior sexual history is not relevant and will not be admitted as evidence during an investigation. Where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent alleges that consent was given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. However, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the Complainant with other individuals is typically not relevant and will not be permitted except under limited exceptions, including if offered to prove that someone other than the Respondent committed the conduct alleged, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

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 after 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 inquiry 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; and/or
- The Respondent was subject to a previous credible allegation and/or previously found responsible for a Policy violation.

X. SANCTIONING

For complaints against *employees, providers, non-students, or other third parties*, OIE's investigation report will be shared with the Respondent's direct supervisor and/or other responsible administrator and Human Resources. The Respondent's direct supervisor shall, in consultation with Human Resources, have disciplinary authority to serve as the Sanctioning Official(s) and impose appropriate sanction(s).

Sanctions may include, at a minimum, a verbal warning, and at a maximum, termination from Rush. The goal of a sanction is to proportionately balance the interests of reducing recurrence, ensuring safety, imposing punitive measures, and advancing educational and developmental growth of an offender, where that may be possible. In addition to the nature of the policy violation in question, sanctioning officials may take into consideration the following aggravating and mitigating factors when arriving at a sanctioning decision:

- State of mind of Respondent (intentionality, bias-motivated, recklessness or negligence/mistake)
- Position of trust/power differential between the persons involved
- Egregiousness of misconduct (e.g., act of violence, use of a weapon, use of drugs)
- Safety risk to the broader community

- Harm to the integrity of Rush or the medical, nursing, or health sciences professions
- Prior misconduct by the Respondent, including the Respondent's relevant prior discipline history, both at Rush and elsewhere, including criminal convictions, if available
- Impact statement by either party
- Conduct during the investigation and adjudication (level of cooperation, inappropriate or obstructive behavior toward the investigator or the parties or witnesses, any retaliatory conduct)
- Whether the Respondent has accepted responsibility for the conduct

Sanctions will outline the basis for the decision and should generally address any applicable implementation considerations including:

- Duration and end point of any ongoing restriction (e.g., how long a no-contact directive will apply)
- Any conditions that may be imposed for the restriction to end
- Foreseeable exceptions, if any, and expectations (e.g., continued interaction in a work environment, academic classes, etc.)
- How to handle unforeseeable circumstances that may arise relating to the sanction

Possible Sanctions 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
- Rush 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.

XI. REMEDIES

If there is a determination that Prohibited Conduct occurred, OIE will coordinate the provision and implementation of remedies to a Complainant and other persons OIE identifies as having had equal access to Rush's education program or activities limited or denied by the Prohibited Conduct. OIE will also take other appropriate prompt and effective steps to ensure that Prohibited Conduct does not continue or recur within Rush's education program or activity.

XII. APPEALS

Appeals may be filed after the notice of outcome has been issued.

Mere disagreement with the investigation finding(s) is not grounds for appeal. A Complainant or Respondent may appeal **only** on the following grounds:

- New evidence that was not reasonably available when the investigation finding was made would change the outcome;
- There was a procedural irregularity that would change the outcome of the investigation; and/or
- There was a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent on the part of the Title IX Officers or investigator that would change the outcome of the investigation.

This section, and the process herein, addresses appeals related to the investigation itself and its findings.

Other Rush employee or student appeal processes are not applicable to findings made or sanctions issued pursuant to *this Policy*.

Method of Appeal

Appeal must be filed with the Appeal Official within seven (7) calendar days of receipt of the investigation's outcome. The appeal must be in writing and contain the following:

1. Name of the parties;
2. A detailed statement of the grounds for the appeal including the specific facts, circumstances, and argument in support of it; and
3. 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 Appeal Official will generally resolve the appeal within twenty-one (21) calendar days of receiving it and may take all actions necessary in the interest of a fair and just decision. The parties will be notified in writing if the Appeal Official's decision will take longer than twenty-one (21) calendar days. The decision of the Appeal Official is final.

The Appeal 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) calendar days of the resolution.

The Appeal Official will be the University Compliance Officer or designee.