

# PROHIBITION AGAINST SEX DISCRIMINATION, SEXUAL HARASSMENT AND SEXUAL MISCONDUCT INVOLVING STUDENTS



## COMPREHENSIVE TITLE IX POLICY, PROCEDURES AND RESOURCES

2ND EDITION – JANUARY 2017

# PROHIBITION AGAINST SEX DISCRIMINATION, SEXUAL HARASSMENT, AND SEXUAL MISCONDUCT INVOLVING STUDENTS

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# PROHIBITION AGAINST SEX DISCRIMINATION, SEXUAL HARASSMENT, AND SEXUAL MISCONDUCT INVOLVING STUDENTS

**Rush University Medical Center promotes and maintains an environment that emphasizes the dignity and worth of every member of its community, free of unlawful discrimination, harassment and sexual misconduct. The following comprehensive Policy has been adopted to protect our community members.**

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As stated throughout this Policy, Rush University Medical Center (Rush) promotes and maintains an environment that emphasizes the dignity and worth of every member of its community. Rush strictly prohibits all forms of unlawful discrimination and harassment of students by any member of the Rush community including, but not limited to, students, faculty, employees, volunteers, guests and vendors. This Policy applies to all Rush programs and activities including instruction, grading, housing and employment.

Rush complies with Title IX of the Higher Education Amendments of 1972, which prohibits discrimination on the basis of sex in educational programs or activities, admission and employment. Sexual misconduct (and its various forms, as defined below) constitutes sexual discrimination and is also covered under this Policy.

It is central to the values of Rush that any member of the community who believes that they have witnessed or been the target of unlawful discrimination or harassment feel free to report their concerns for an appropriate response and investigation, without fear of retaliation or retribution. Rush will respond to complaints, reports or information about incidents of discrimination, harassment or sexual misconduct by stopping the prohibited conduct, eliminating hostile environments, taking steps to prevent the recurrence of prohibited conduct, and addressing its effects on campus or in any Rush programs and activities regardless of location.

All complaints and concerns about conduct that may violate this Policy (including retaliation for reports made pursuant to this Policy) should be filed with Rush's Title IX Coordinator:

Shanon Shumpert  
Equal Opportunity Officer & Title IX Coordinator  
Rush University Medical Center  
Armour Academic Center, Suite 403  
600 S. Paulina St.  
Chicago, IL 60612  
312/942-5239  
Shanon\_Shumpert@rush.edu

Confidential reports can also be made through the Rush Hotline at (877) 787-4009 or via the Rush web reporting tool at [rush.ethicspoint.com](http://rush.ethicspoint.com).

Anonymous reporters do not need to identify themselves, but are asked to provide enough information to enable an investigation. Upon receipt of a complaint, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken consistent with the procedures outlined herein.

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

Rush will provide training on sexual misconduct prevention, reporting and response for all Responsible Employees and students through various platforms. Training is required of all Responsible Employees and will be provided annually to faculty and staff. Students will be offered online and live training which will be available to them throughout the course of their enrollment at Rush. Continuous training events and programming will be held virtually and at various locations on campus throughout the

year. Those Rush officials with increased duties of response, advocacy and confidentiality will be required to attend additional training.

## **I. Scope of Policy**

The Policy applies to discrimination and harassment based on sex or gender, and sexual misconduct, committed by or against a student, regardless of whether:

- The conduct occurs on campus;
- The conduct occurs off-campus in the context of Rush programs or activities, including but not limited to Rush sponsored internships, or other Rush-affiliated programs; and/or
- The conduct occurs off-campus outside the context of a Rush program or activity, but has continuing adverse effects on campus or in any Rush program or activity.

If the Complainant is a student, this Policy applies equally regardless of whether the Respondent is a student, faculty member, employee, patient and/or vendor who has contact with Rush. If the Respondent is a student, this Policy applies equally regardless of whether the Complainant is a student, faculty member, employee, patient and/or vendor who has contact with Rush.

For the purposes of this Policy, the Complainant is any person who submits a complaint or report of sex discrimination, sexual harassment, sexual misconduct or retaliation in violation of this Policy. In many cases, the Complainant also will be the victim of the alleged misconduct, but persons other than the victim who are aware of sex discrimination, sexual harassment, sexual misconduct or retaliation are authorized to submit complaints or reports. This includes reports by third parties or bystanders. When used in this Policy, Complainant refers to both the person making the complaint or report and the alleged victim. The services and support to Complainants described in this Policy are available to the victim, even if the victim is not the Complainant.

The Respondent is any person who is accused of sex discrimination, sexual harassment, sexual misconduct or retaliation against a student, including a Rush student, faculty member, employee or a third party.

This Policy also confirms Rush's obligation, upon receiving a report of sexual misconduct under this Policy, to provide survivors of sexual violence with concise information, written in plain language, concerning the survivor's rights and options.

A copy of Rush's student notification of rights and options can be obtained by contacting the Title IX Coordinator or at <https://www.rushu.rush.edu/consumer-information/health-and-safety/sexual-harassment-and-assault-prevention>.

## **II. Definitions of Conduct Prohibited by this Policy**

### **A. Gender or Sexual Discrimination**

As a recipient of federal funds, Rush is required to comply with Title IX of the Educational Amendments of 1972, which prohibits gender discrimination at institutions of higher education in educational programs or activities, admission and employment. Rush prohibits gender discrimination in any of its programs or activities. Sexual harassment, including sexual assault and other kinds of sexual violence, is a form of gender discrimination. This Policy and its related procedures apply to complaints alleging all forms of gender discrimination (including sexual harassment, sexual assault, and sexual violence) against and by students. For the purposes of this Policy, references to sexual misconduct include sexual and gender-based harassment, assault, and violence. Inquiries concerning the application of Title IX may be referred to Rush's Title IX Coordinator or to the U.S. Department of Education's Office for Civil Rights. See Section XXVI – Resources, for contact information.

### **B. Sexual Harassment**

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

Sexual harassment can occur in the following situations:

- Submission to such behavior is made, explicitly or implicitly, a term or condition of an individual's status in a course, program, or activity; or

- Submission to or rejection of such behavior is used as a basis for a decision affecting an individual's participation in a course, program, or activity; or
- The conduct creates a hostile, intimidating or offensive educational environment that has the effect of unreasonably interfering with a student's academic performance or limits a student's ability to participate in educational programs or activities.

In determining whether behavior is sexual harassment, the totality of the circumstances, including the nature of the behavior and the context in which it occurred, must be considered. Sexually harassing conduct often involves a pattern of offensive behavior. A single incident may also constitute sexual harassment, depending on the severity of the conduct and on factors such as the degree to which the conduct affected the student's education; the type of conduct; and the relationship between the alleged harasser and the student. The conduct does not have to be directed at a specific person or persons to constitute harassment. Sexual harassment that creates a hostile environment violates this Policy. A hostile environment exists when the harassment:

- 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 programs, services, opportunities or activities; or
- has the purpose or effect of unreasonably interfering with an individual's academic achievement or employment.

In determining whether harassment has created a hostile environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as offensive. The following factors will be considered:

- The degree to which the conduct affected a student's education;
- The nature, context, scope, frequency, duration and location of the incident(s); and
- The identity, number and relationships of the persons involved.

Examples of Sexual Harassment:

Many kinds of behavior may fit within the preceding definition of sexual harassment. Speech and expressive conduct can also be sexual harassment. The following is a non-exhaustive list of examples of behavior that might fall within the preceding definition of sexual harassment:

- Threats or insinuations that lead the student reasonably to believe that granting or denying sexual favors will affect the student's reputation, education, advancement, or standing at Rush;
- Sexual advances, sexual propositions, or sexual demands that are not agreeable to the recipient;
- Unwelcome sexually explicit material sent by email, text message, or other electronically transmitted communication;
- Sexual misconduct such as stalking, cyberstalking, recording or transmitting sexual images without an individual's permission, and voyeurism;
- Unwelcome and persistent sexually explicit statements or stories that are not legitimately related to course content, research, or other Rush programs or activities;
- Repeatedly using sexually degrading words or sounds to a person or to describe a person;
- Unwanted and unnecessary touching, patting, hugging, kissing or other physical contact;
- Recurring comments or questions about an individual's sexual prowess, sexual deficiencies, or sexual behavior; and/or
- Remarks about an individual's gender, nonconformity with gender stereotypes or actual or perceived sexual orientation.

All forms of sexual misconduct and relationship violence described in this Policy are also prohibited forms of sexual harassment.

### C. Sexual Misconduct and Relationship Violence

Sexual misconduct includes sexual violence. Sexual violence includes sexual assault, incapacitation for sexual purposes, sexual exploitation, relationship violence, and in some instances, sexual harassment.

- i. Sexual assault is actual or attempted sexual contact with another person without that person's consent. It includes, but is not limited to, instances where the victim is unable to consent (impaired or incapacitated due to drug or alcohol consumption, asleep, unconscious, etc.).
- ii. Sexual exploitation is when a person takes non-consensual or abusive sexual advantage of another for anyone's

advantage or benefit other than the person being exploited. It includes, but is not limited to, prostituting another person; non-consensual visual or audio recording of sexual activity; non-consensual distribution of photos 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 have non-consensual sexual contact with a victim; knowingly transmitting a sexually transmitted infection, without disclosing your status; and/or possessing, distributing, viewing or forcing others to view illegal pornography.

iii. Relationship violence encompasses domestic violence, dating violence and stalking. Definitions for each of these are:

**Domestic Violence** is defined as an act of violence committed by any of the following individuals:

- A current or former spouse or intimate partner of the victim;
- A person with whom the victim shares a child in common;
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- A resident or former resident of the victim's household; and/or
- An incident of domestic violence can consist of a single act of violence or a pattern of violent acts that includes, but is not limited to, sexual or physical abuse.

**Dating Violence** is defined as an act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim that does not fall within the definition of "domestic violence." For the purposes of this definition:

- Whether the relationship is of a romantic or intimate nature is determined by a variety of factors, including the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship;
- A relationship of a romantic or intimate nature means a relationship that is characterized by the expectation of affection or sexual involvement between the parties; or
- An incident of dating violence can be a single act of violence or a pattern of violent acts that includes, but is not limited to, sexual or physical abuse, or the threat to engage in such abuse.

**Stalking** is defined as engaging in a course of conduct that is directed at a specific person that would cause a reasonable person to feel fear for herself or himself or for the safety of others, or to suffer substantial emotional distress.

- A "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- "Substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical treatment or professional counseling.
- A "reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.

Stalking includes cyber-stalking, a form of stalking in which electronic media such as the internet, social networks, blogs, texts, cell phones, or other similar devices or forms of contact are used. This Policy prohibits all stalking, not just stalking that occurs within the context of a relationship.

#### **D. Retaliation**

Retaliation is an adverse action taken by an accused individual or an action taken by a third party against any person because that person has opposed any actions or practices prohibited under this Policy or because that person has filed a complaint, testified, assisted or participated in any manner in an investigation or proceeding under this Policy. This includes action taken against a bystander who intervened to stop or attempted to stop discrimination, harassment or sexual misconduct. Retaliation includes intimidating, threatening, coercing or in any way discriminating against an individual because of the individual's complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this Policy. Retaliation is strictly prohibited and Rush will take strong corrective action if retaliation occurs. Individuals who engage in retaliation in violation of this Policy are subject to the full range of sanctions that can be imposed against them under applicable policies, including suspension, termination or administrative withdrawal from Rush.

## E. Consent

Consent means the voluntary, willful, unambiguous and freely given agreement to engage in a specific sexual activity during a sexual encounter. Consent cannot be given by someone who is:

- Under age
- Sleeping or unconscious
- Unconscious, unaware, or otherwise mentally or physically incapacitated due to the use of drugs or alcohol (“incapacitated”)
- Unable to understand the nature of the sexual activity due to a mental disability or condition (“mentally incapable”), or
- Under duress, threat, deception, coercion, misuse of professional authority/status, or force.

Consent must be clear and communicated by mutually understandable words or actions. Silence, passivity, or the absence of physical or verbal resistance, (for example, the absence of a verbal “no” or “stop”) does not constitute consent, and relying solely on non-verbal communications may result in a violation of this Policy. A person’s manner of dress does not constitute consent. It is important not to make assumptions. If confusion or ambiguity arises during a sexual interaction, it is essential that each participant stops and verbally clarifies willingness to continue. Prior consent does not imply current consent or future consent; even in the context of a prior or current relationship, consent must be sought and freely given for each instance of sexual contact.

Consent to any one form of sexual activity does not constitute consent to other forms of sexual activity. Consent can be withdrawn at any time during a sexual encounter. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

## F. Incapacitation

Incapacitation is a state where an individual cannot make an informed and rational decision to consent to engage in sexual activity because the individual lacks conscious knowledge of the nature of the act (e.g., to understand the “who, what, where, when, why or how” of the sexual interaction) and/or is physically helpless. An individual is also considered incapacitated, and therefore unable to give consent, when asleep, unconscious, or otherwise unaware that sexual activity is occurring.

Incapacitation may result from the use of alcohol and/or other drugs. Consumption of alcohol or other drugs, inebriation or intoxication are insufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual’s:

- Decision making ability;
- Awareness of consequences;
- Ability to make informed judgments; or
- Capacity to appreciate the nature and circumstances of the act.

Evaluating incapacitation also requires an assessment of whether a Respondent knew or should have known that the Complainant was incapacitated when viewed from the position of a sober, reasonable person.

In general, sexual contact while under the influence of alcohol or other drugs poses a risk to all parties. Alcohol and drugs impair a person’s decision-making capacity, awareness of the consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person’s level of intoxication. If there is any doubt as to the level or extent of the other person’s intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

Signs of incapacitation may include:

- Slurred speech
- Bloodshot eyes
- Smell of alcohol on breath
- Clumsiness
- Inability to focus
- Confusion

- Shaky balance
- Stumbling or falling down
- Vomiting
- Poor judgment
- Difficulty concentrating
- Combativeness or emotional volatility
- Outrageous or unusual behavior
- Unconsciousness

Being intoxicated or impaired by drugs or alcohol is never an excuse for misconduct and does not diminish one's responsibility to obtain consent.

### **III. Prohibition on Providing False Information**

Rush takes all complaints of discrimination, harassment and sexual misconduct seriously. Any individual who knowingly or intentionally files a false complaint under Rush's Prohibition Against Harassment, Discrimination and Sexual Misconduct Against Students Policy, or who intentionally misleads Rush officials involved in the investigation or resolution of a complaint may be subject to disciplinary action.

### **IV. Confidentiality**

Rush will make every reasonable effort to abide by a Complainant's wish to remain anonymous. However, Rush has to balance confidentiality with the safety of other members of the community. Factors that are considered when determining whether to disclose a complaint or report misconduct to a Respondent include: the seriousness of the alleged conduct; the Complainant's age; whether there have been other complaints about the same individual; the Respondent's right to receive information about the allegations, if the information is maintained by Rush as an education record under the Family Educational Rights and Privacy Act (FERPA); and the applicability of any laws mandating disclosure.

If Rush proceeds with an investigation or other response to the complaint, the Complainant will be notified before the Respondent is contacted. The Complainant will be informed if Rush cannot ensure confidentiality and informed of Rush's prohibition against retaliation.

Even if Rush cannot take disciplinary action against the Respondent because of the request for confidentiality, Rush will take prompt and effective action to limit the effects of the alleged sexual misconduct and to prevent its recurrence to the extent warranted and practicable. For instance, Rush may issue a "no contact" order or take other appropriate interim measures to ensure an individual's safety even in the absence of a formal proceeding.

### **V. General Complaint Procedures**

Students who wish to register a complaint alleging discrimination, harassment and/or sexual misconduct, regardless of whether it is against a Rush student, faculty member, employee, volunteer, guest or vendor, under this Policy should contact the Title IX Coordinator for Rush University Medical Center. See contact information on Section XXVI. Reports can also be made through the Rush Hotline at (877) 787-4009 or via the web at [rush.ethicspoint.com](http://rush.ethicspoint.com).

Once a report has been received, it will be investigated thoroughly and promptly by the Title IX Coordinator. The facts of each report will determine the response to the allegation(s). Rush's response will follow the resolution and adjudication procedures outlined in Sections XVIII – XIX below.

The penalties for violating this Policy can range from a reprimand to dismissal from the University.

Information regarding any specific allegations or incidents will be kept confidential within the necessary boundaries of the fact-finding process.

Reprisals or retaliation against the individual reporting the allegation of discrimination, harassment and/or sexual misconduct will

not be tolerated by Rush. Furthermore, the individual reporting the behavior will be kept updated as to the investigative process and will be informed of the final outcome. Individuals making claims of harassment in bad faith or intentionally submitting false information may be subject to disciplinary action up to and including discharge or expulsion.

The procedures described in this Policy apply to all complaints alleging sexual misconduct under Title IX, as that term is described above.

## **VI. Sexual Misconduct Complaint Procedures**

For information regarding medical assistance and emotional support after sexual misconduct, as well as important contact information for local law enforcement agencies and hospitals, see Sections VII and XXVI below.

Please note: These procedures are intended to protect the rights of both the Complainant and the Respondent. Thus, a person who believes they may have been accused wrongly of harassment or discrimination should utilize the appropriate grievance procedure to appeal the decision.

A student who believes that he or she has been involved in an incident of sexual misconduct, or any member of Rush who becomes aware of an incident of sexual misconduct, is strongly encouraged to report the incident through one or more of the following options. As with all types of incidents, Rush prohibits and will address any retaliation against anyone who files a good faith complaint or discloses an incident of sexual misconduct.

### **A. Filing a Complaint with Law Enforcement**

In addition to violating Rush Policy, sexual misconduct may also constitute criminal activity. The student complaint procedure outlined in this Policy is not a substitute for legal action. Therefore, all individuals are encouraged to report conduct that may also violate criminal law to both Rush and to local law enforcement. These processes are not mutually exclusive. Individuals who make a criminal complaint may also choose to pursue a Rush complaint simultaneously. Every victim of sexual misconduct maintains the personal right to file criminal charges with the appropriate local law enforcement agency in addition to or instead of filing an Incident Report with the Title IX Coordinator. In situations when individuals choose not to report alleged sexual misconduct to law enforcement authorities, Rush respects the individual's decision, but may notify appropriate law enforcement authorities if required or warranted by the nature of the allegations.

Individuals may file a complaint directly with local law enforcement agencies by dialing 911. Individuals may also contact Rush's Title IX Coordinator for assistance in filing a complaint with local law enforcement. See Section XXVI for contact information.

Individuals who make a criminal complaint may also choose to pursue a Rush complaint simultaneously.

A criminal investigation into the matter does not preclude Rush from conducting its own investigation. Nor is a criminal investigation determinative of whether sexual misconduct, for purposes of this Policy, has occurred. However, Rush's investigation may be delayed temporarily while the criminal investigators gather evidence. In the event of a delay, Rush may take interim measures when necessary to protect the alleged victim and/or the Rush community. Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decline to investigate the matter is determinative of whether sexual misconduct, for the purposes of this Policy, has occurred.

The chances of a successful criminal investigation are greatly enhanced if evidence is collected and maintained immediately by law enforcement officers. Victims may discuss the matter with a law enforcement officer without making a formal criminal complaint or a formal Rush complaint. The Title IX Coordinator and the resources below are available to assist victims in reporting a crime of sexual misconduct to law enforcement.

Rush University Medical Center  
Security Department  
312-942-5678  
From Campus Phone: 2-5678  
Chicago Police Department: Dial 911

When talking to the Title IX Coordinator, a student does not need to know whether they wish to request any particular course of action, including whether they wish to pursue an internal Rush complaint or a criminal complaint, or both. Complainants do not need to know how to label what happened. Choosing to make a complaint and deciding how to proceed after making the complaint, can be a process that unfolds over time. Rush also encourages individuals who have been sexually assaulted to undergo a health assessment by a sexual assault nurse examiner as soon as possible. A sexual assault nurse examiner is a registered nurse specially trained to provide care to sexual assault patients. The sexual assault nurse examiner conducts medical forensic examinations and can serve as an expert witness in a court of law. If you decide to have a sexual assault nurse examiner exam, you can choose whether or not to make a police report.

Whether or not a victim chooses to make an official report to the Title IX Coordinator or law enforcement, he or she is encouraged to seek appropriate help, which includes medical attention, obtaining information, support and counseling. Rush cannot file a criminal complaint on behalf of the student. The student must make this decision and initiate this complaint with the local police department.

### **Relationship between Law Enforcement Investigations and Internal Investigations**

Law enforcement agencies investigate to determine whether there has been a violation of criminal laws. The Title IX Coordinator investigates to determine whether there has been a violation of Rush Policy. The investigations usually proceed concurrently, and the outcome of one investigation does not determine the outcome of the other investigation.

Occasionally, the Title IX Coordinator may need to briefly suspend the investigation at the request of law enforcement while the police are in the process of gathering evidence. The Title IX Coordinator will maintain regular contact with law enforcement to determine when it may complete its investigation. Even if the Title IX Coordinator's investigation is briefly suspended, Rush will nevertheless communicate with the Complainant regarding his/her rights, procedural options, and the implementation of appropriate interim measures to assist and protect the safety of the Complainant and the campus community and to prevent retaliation. The Title IX Coordinator will promptly resume his or her investigation as soon as he or she is notified by the police department that it has completed its evidence gathering process, or sooner if Rush determines that the evidence gathering process will be lengthy or delayed.

### **No Contact Orders**

Victims of domestic violence, sexual assault or stalking also have the right to obtain an Order of Protection or No Contact Order through the county court where either the victim or Respondent resides, or the county in which the allegations occurred.

## **B. Filing a Complaint with Rush**

Anyone wishing to make a complaint under this Policy should contact Rush's Title IX Coordinator. See Section XXVI for contact information. Individuals may also file anonymous reports through the Rush Hotline at (877) 787-4009 or via the 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 complaint, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken consistent with the procedures outlined herein.

Rush has an obligation to promptly take steps to investigate or otherwise determine what occurred and then to address instances of sexual misconduct when it knows or should have known about such instances, regardless of the Complainant's cooperation and involvement. Therefore, Rush encourages persons who believe they have experienced sexual misconduct to contact Rush. Rush will accept anonymous reports. The Title IX Coordinator has responsibility to oversee the prompt, fair and impartial investigation and resolution of complaints filed with Rush under this Policy.

Rush can most effectively investigate and respond to allegations of sexual misconduct or relationship violence if the complaint is made as promptly as possible after the alleged violence or misconduct occurs. Rush does not, however, limit the time frame for reporting. If the Respondent is not a member of the Rush community at the time of the report, Rush will still seek to meet its legal obligations by providing reasonably available support for a Complainant, but its ability to investigate and/or take action may be limited. Rush will, however, assist a Complainant in identifying external reporting options.

If any administrator designated by this Policy to participate in the investigation or resolution of a complaint is the Respondent (including, but not limited to, the Title IX Coordinator), then the Provost, or his/her designee, will appoint another Rush

administrator to perform such person's duties under this Policy. If the Provost is the Respondent, then the Sr. Vice President of Human Resources will appoint another Rush administrator to perform his or her duties under this Policy.

Rush will make every reasonable effort to ensure that the investigation and resolution of a complaint occurs in a timely and efficient manner. The investigation and resolution of a complaint (not including an appeal, if applicable) will be completed within 60 calendar days of the receipt of the complaint, absent extenuating circumstances. Formal investigations, as described in Section XVIII, E. Investigation below will take place after the conclusion of the Title IX Coordinator's investigation. If a formal investigation has taken place, both the Complainant and the Respondent generally will receive a final outcome letter within the time frames set forth below.

Any party may request an extension of any deadline by providing the Title IX Coordinator or his/her designee with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The Title IX Coordinator or his/her designee may modify any deadlines as necessary and for good cause.

Individuals may choose not to report alleged discrimination, harassment or sexual misconduct to campus officials. Rush respects the individual's decision with regard to reporting; however, if information about discrimination, harassment or sexual misconduct comes to the attention of Rush, Rush may open an investigation even in the absence of a filed complaint, and/or notify appropriate law enforcement authorities, if required or warranted by the nature of the information of which it becomes aware.

If an individual is uncomfortable making a complaint to the Title IX Coordinator, he or she may report allegations of sex discrimination, sexual harassment or sexual misconduct to any employee in the Security Department, the Office of Student Affairs, the Office of Medical Student Programs (OMSP) or Human Resources. See contact information in Section XXVI below.

If an employee of the Rush Security Department, OMSP or Human Resources receives a report of, or becomes aware of an allegation of sex discrimination, sexual harassment or sexual misconduct, that employee must notify Rush's Title IX Coordinator immediately. Any manager or faculty member with knowledge, including firsthand observation, about a known or suspected incident of sex discrimination, sexual harassment or sexual misconduct (other than health care professionals and other individuals who are statutorily barred from reporting) must immediately report the incident to Rush's Title IX Coordinator.

No member of the Rush community may discourage an individual from reporting alleged incidents of sex discrimination, sexual harassment or sexual misconduct. No employee is authorized to investigate or resolve complaints without the involvement of Rush's Equal Opportunity Office and Title IX Coordinator or his/her designee.

## VII. Immediate Victim Assistance and Interim Protective Measures

### Medical Care and Crisis Center Services:

Rush University Emergency Department  
1653 W. Congress Parkway  
312/942-6428

Chicago Police Department  
12th District Police Department  
1412 S. Blue Island  
Chicago, IL 60608  
312/746-8396  
CAPS012District@chicagopolice.org

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

Rape Victim Advocates  
180 N Michigan Ave #600, Chicago, IL 60601  
312/443-9603

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

Additionally, there are many local health care sites that can provide treatment for injuries or sexually transmitted diseases, as well as perform rape kits in order to preserve evidence should a victim want to pursue charges at a later point. Several of these resources staff sexual assault nurse examiners who hold specialized training in providing rape kits in a victim-sensitive manner.

The following medical facilities near Rush may provide medical forensic examinations at no cost to the victim pursuant to the Illinois Sexual Assault Survivors Emergency Treatment Act.

Rush University Emergency Department  
1653 W. Congress Parkway  
312/942-6428

UIC Medical Center Emergency Room  
1740 W. Taylor Street  
312/996-7298

For more information on ways to receive immediate assistance after an incident, please visit the Rush Emergency Department website, <https://www.rush.edu/services/emergency-department>, or call 312-942-6428 or contact the Chicago 24-Hour Rape Crisis Hotline, [www.rapevictimagadvocates.org](http://www.rapevictimagadvocates.org) or 888-293-2080.

### Counseling

In addition to the services described above, Rush also can provide counseling referrals and resources to anyone affected by an incident of sexual misconduct or relationship violence. Students seeking counseling referrals for licensed mental health professionals should contact:

Rush University Counseling Center  
Kidston House  
630 S. Hermitage, Ste. 701  
312/942-3687 (8:30 a.m. - 5:00 p.m.)  
[www.rushu.rush.edu/stucoun](http://www.rushu.rush.edu/stucoun)

Rush Assistance Program  
800/292-2780  
[www.ers-eap.com](http://www.ers-eap.com) User name: rush Password: rush

## Academic Accommodations and Other Interim Measures

Immediately following a reported incident and while investigation is ongoing, Rush reserves the right to take whatever measures it deems necessary to protect a student's rights and personal safety. These efforts may include changes to academic, living, dining, transportation, and working situations, obtaining and enforcing impact course/work schedules, class assignments, presence on campus and other measures. Rush may provide accommodations and take other protective measures regardless of whether the student pursues a complaint pursuant to this Policy or reports the incident to local law enforcement.

## VIII. Preservation of Evidence

Whether a Complainant files a complaint under this Policy or with a local law enforcement agency, any person who has experienced sexual misconduct, and in particular persons who have experienced sexual or relationship violence or sexual assault, should preserve to the extent possible any evidence that may assist investigators in determining whether the alleged misconduct occurred or might be relevant to the issuance of an order of protection. Actions to preserve evidence include, but are not limited to, the following:

- Do not dispose of or destroy or alter any physical evidence, including clothing;
- If you suspect that a drink has been drugged or tampered with, inform a medical care provider or law enforcement official immediately so they can attempt to collect physical evidence, including the drink and urine or blood samples; and/or
- Preserve any electronic communications related to the misconduct, including voice mail messages, text messages, e-mails, instant messages, social media pages, digital photographs or videos, etc.

If you need any assistance in preserving evidence related to the misconduct, you should contact emergency medical personnel, law enforcement and/or the Title IX Coordinator.

## IX. Appointment of Confidential Advisors

Pursuant to the Illinois Preventing Sexual Violence in Higher Education Act, survivors of sexual violence have access to Confidential Advisors who can provide emergency and ongoing support to survivors of violence. Under the act, "sexual violence" means physical sexual acts attempted or perpetrated against a person's will or when a person is incapable of giving consent including, without limitation to, rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. A survivor of sexual violence is a student who has experienced sexual violence, domestic violence, dating violence or stalking while enrolled at Rush. Rush, however, provides access to Confidential Advisors for all Complainants.

Confidential Advisors are authorized and trained to provide the following services:

- Inform the Complainant of the Complainant's choice of possible next steps regarding the Complainant's reporting options and possible outcomes, including without limitation reporting pursuant to this Policy and notifying local law enforcement;
- Notify the Complainant of resources and services for survivors of sexual violence, including, but not limited to, student services available on campus and through community-based resources, including without limitation sexual assault crisis centers, medical treatment facilities, counselling services, legal resources, medical forensic services, and mental health services;
- Inform the Complainant of the Complainant's rights and Rush's responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by Rush or a criminal or civil court;
- Provide confidential services to and have privileged, confidential communications with Complainant in accordance with Illinois law;
- Upon the Complainant's request and as appropriate, liaise with campus officials, community-based sexual assault crisis centers, or local law enforcement and, if requested, assist the Complainant with contacting and reporting to campus officials or local law enforcement; and
- Upon the Complainant's request, liaise with the necessary campus authorities to secure interim protective measures and accommodations for the Complainant.

Rush's Confidential Advisors are listed below:

Rush Assistance Program  
800/292-2780  
www.ers-eap.com  
User name: rush Password: rush

Rape Victim Advocates  
180 N. Michigan Ave., Suite 600  
Chicago, IL 60601  
312/443-9603

## **X. Confidentiality in Sexual Misconduct Claims**

### **A. Requests for Confidentiality or Anonymity**

While steps are taken to protect victims' privacy and empower victims to pursue their chosen course of action, Rush may be legally required to investigate an incident and take action to ensure the safety of the victim and the Rush community, whether or not a victim chooses to pursue a complaint. In cases indicating pattern, predation, threat, weapons and/or violence, Rush will likely be unable to honor a request for confidentiality. In cases where the victim requests confidentiality and the circumstances allow Rush to honor that request, Rush will offer interim support and remedies to the victim and the community, but will not otherwise pursue formal action.

Formal reporting still affords privacy to the Complainant and only a small group of Rush officials who need to know will be told, including but not limited to: Title IX Coordinator, Student Affairs personnel and security personnel if needed. The circle of people with this knowledge will be kept as tight as possible in each case in order to preserve a reporting party's rights and privacy.

Victims of sexual misconduct may request confidentiality or anonymity, including that their name not be shared with the Respondent, that the Respondent not be notified of the report, or that no investigation occur. If the victim wants to tell the Title IX Coordinator what happened, but also wants to maintain confidentiality or anonymity, the Title IX Coordinator will tell the victim that Rush will consider the request but cannot guarantee confidentiality or anonymity. The Title IX Coordinator will advise the victim that the details of the incident will be disclosed only to those officials with a legitimate institutional interest in knowing the information. Every effort will be made to maintain confidentiality of any accommodations or interim protective measures that are arranged for the reporting party unless such confidentiality prevents the institution from providing those accommodations or protective measures.

The Title IX Coordinator will weigh the victim's request for confidentiality or anonymity against Rush's obligation to provide a safe, non-discriminatory environment for all students and employees, including the victim. The Title IX Coordinator will consider a range of factors in weighing the request, including:

- The increased risk that the Respondent will commit additional acts of relationship violence or sexual misconduct, for example:
  - Whether there have been other sexual misconduct complaints about the same Respondent;
  - Whether the Respondent has a history of arrests or records from a prior school indicating a history of violence;
  - Whether the Respondent threatened further sexual misconduct against the victim or others;
  - Whether the sexual misconduct was committed by multiple Respondents; and/or
  - Whether there have been threats to kill or harm the victim;
  - Whether the sexual misconduct was perpetrated with a weapon;
- Whether the victim is a minor;
- Whether Rush possesses other means to obtain relevant evidence of the sexual misconduct (e.g., security cameras or personnel, physical evidence); or
- Whether the victim's report reveals a pattern of sexual misconduct at a specific location or by a particular group.

If Rush honors the request for confidentiality, the Title IX Coordinator will explain to the victim that Rush's ability to meaningfully investigate the incident and pursue disciplinary action against the Respondent may be limited.

The Title IX Coordinator will also explain that Rush prohibits retaliation for filing a complaint and will take steps to prevent retaliation and take strong responsive action if any retaliation occurs. If the Complainant continues to ask that his or her name not be revealed, Rush will take all reasonable steps to investigate and respond to the complaint consistent with the request as long as doing so does not prevent Rush from responding effectively to harassment and preventing harassment of others.

Regardless of whether the request for confidentiality is honored, Rush will take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence when possible. Such steps might include providing increased security or supervision at locations or activities where a pattern of sexual misconduct exists; providing education and training materials for students, student groups, or employees; reviewing applicable sexual misconduct disciplinary policies; and conducting climate surveys regarding sexual misconduct.

At times, in order to provide a safe, non-discriminatory environment for members of the campus community, Rush may not be able to honor a victim's request for confidentiality. In such circumstances, the Title IX Coordinator will inform the victim prior to starting an investigation and will share information only with people involved in Rush's investigation. The victim is not required to participate in the investigation. Should the victim choose not to participate in an investigation, the Title IX Coordinator will explain that Rush's ability to meaningfully investigate the incident and pursue disciplinary action against the Respondent may be limited.

## **B. Disclosure to Responsible Employees**

Most Rush officials are considered Responsible Employees. Responsible Employees include, but are not limited to:

- A Complainant's or victim's professor, instructor or other faculty member
- Academic Affairs, Associate Provost
- Administrators on Call ("AOC")
- College of Health Sciences, Marketing and Admission, Director
- College of Nursing, Department Manager
- Community Engagement, Senior Director
- Community Engagement, Director
- Corporate Compliance, Chief Compliance Officer
- Corporate Compliance, Vice President
- Diversity & Inclusion, Community Employment Liaison, Manager
- Emergency Department personnel
- Graduate College, Department Manager
- Human Resources, Sr. Vice President
- Human Resources, Compliance Manager
- Human Resources, Title IX Coordinator
- Office of Equal Opportunity, Equal Opportunity Officer
- Rush Medical College, Director of Admission
- Rush University Counseling Center staff
- Security Services, Director
- Security Services, Assistant Director
- Student Affairs, Department Manager
- Student Affairs, Senior Associate Provost
- Student Diversity & Multicultural Affairs, Director
- Student Life & Engagement, Director
- Student Life & Engagement, Associate Director
- University Registrar
- University Affairs, Director

This means they are required by law to report to the Title IX Coordinator all details shared with them regarding incidents of sexual misconduct. To insure a prompt response to a complaint, Rush strongly encourages students to submit reports directly to the Title IX Coordinator. But if a student reports to a Responsible Employee, that employee is obligated to submit the report to the Title IX Coordinator.

### C. Partially Confidential Disclosures

Rush has identified the following advisors who are able to keep reports of 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.

Paula J. Brown, MBA  
Manager, Diversity & Inclusion  
Office for Equal Opportunity  
Rush University Medical Center  
1725 W. Harrison Street, Suite 128  
Chicago, IL 60612  
312/942-7094  
Paula\_Brown@rush.edu

Rush Assistance Program  
800/292-2780 [www.ers-eap.com](http://www.ers-eap.com)  
User name: rush Password: rush

The Rev. Clayton L. Thomason, J.D., M.Div.  
Chairman, Department of Religion, Health & Human Values  
Director, Program in Healthcare Ethics  
Rush University Medical Center  
511 Kidston House  
1653 W. Congress Parkway  
Chicago, IL 60612  
312/942-5826  
312/942-5571  
Clayton\_Thomason@rush.edu

### D. 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 St., #1150, Chicago, IL  
888/293-2080 (24 hours)

Rape Victim Advocates  
180 N Michigan Ave #600, Chicago, IL 60601  
312/443-9603

## XI. Crime Reporting and Timely Warnings

As part of its annual reporting obligations under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act, as amended by the Violence Against Women Act, and related regulations, Rush discloses statistics regarding domestic violence, dating violence, stalking, and sexual assaults that meet the definition of forcible and non-forcible sex offenses under federal law. The report, the Annual Security and Fire Safety Report, is published every October and is located on Rush website at: <https://www.rushu.rush.edu/rush-experience/safety-and-security>.

Victims of sexual misconduct should also be aware that Rush administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the Rush community. Rush will make every effort to ensure that a victim's name and other identifying information is not disclosed while still providing enough information for community members to make safety decisions in light of the danger.

## XII. Reports from Witnesses & Bystander Intervention

Students, employees and third parties who witness acts of sexual misconduct perpetrated by a member of Rush community (faculty, staff, or student) or occurring during a Rush program or event or on Rush property are strongly encouraged to report the misconduct to the Title IX Coordinator.

Rush encourages all witnesses of sexual misconduct to engage in bystander intervention when safe to do so. As explained on the [www.notalone.gov](http://www.notalone.gov) website, "the bystander role includes interrupting situations that could lead to assault before it happens or during an incident; speaking out against social norms that support sexual assault, domestic violence, dating violence, and stalking; and having skills to be an effective and supportive ally to survivors."

### **XIII. Amnesty for Drug or Alcohol Possession and Consumption Violations**

Rush encourages students to report all incidents of sexual misconduct. Therefore, students who in good faith report sexual misconduct or other violations of this Policy will not be disciplined by Rush for student conduct violations such as underage drinking and misuse of alcohol, unless Rush determines that the violation was egregious, including without limitation actions that place the health or safety of another person at risk.

### **XIV. Sexual Misconduct and Relationship Violence by Third Parties**

Rush prohibits relationship violence and sexual misconduct by third parties towards members of Rush community when the third party has been brought into contact with the member of Rush community through a Rush program or activity. Although individuals who are not students or employees of Rush are not subject to discipline under Rush's internal processes, Rush will take prompt, corrective action to eliminate sexual misconduct and prevent its recurrence in those circumstances.

If a Rush student believes that she or he has experienced sexual misconduct in a Rush program or activity by an individual who is not a Rush employee or student, the student should report the conduct to the Title IX Coordinator.

### **XV. Request Not to Pursue Complaint**

A Complainant (or alleged victim, if not the Complainant) may determine after filing a complaint that he or she does not wish to pursue resolution of the complaint through Rush. Rush takes such requests seriously. However, individuals are advised that such requests may limit Rush's ability to take action in response to a complaint. Title IX requires Rush to evaluate requests that a complaint not be adjudicated in the context of Rush's commitment to provide a reasonably safe and non-discriminatory environment. In order to make such an evaluation, the Title IX Coordinator or his/her designee may conduct a preliminary investigation into the alleged sexual misconduct and may weigh the request against the following factors: the seriousness of the alleged sexual misconduct; the Complainant's and/or alleged victim's age; whether there have been other complaints of sexual misconduct against the Respondent; the Respondent's right to receive information about the allegations if the information is maintained by Rush as an education record under Family Educational Rights and Privacy Act (FERPA) and the applicability of any laws mandating disclosure.

Even when Rush is in receipt of a request not to pursue an investigation, Title IX requires Rush to take reasonable action in response to the information known to it; thus, Rush may take such measures and impose such discipline as are deemed necessary by the Title IX Coordinator, Investigator and Outcome Panel. In instances where the Complainant does not wish to proceed, Rush may act as the Complainant and proceed without the participation or cooperation of the reluctant Complainant.

If at any point during the complaint, investigative or disciplinary processes, the Title IX Coordinator or Investigator reasonably believes that a Respondent who is a member of the Rush community poses a threat of harm to any member of the campus community; threatens or endangers Rush property; or disrupts the stability and continuance of normal Rush operations and functions, the Title IX Coordinator or Investigator may request that the appropriate college or office suspend the Respondent on an interim basis and/or restrict his/her movement on campus.

These actions may be appealed in accordance with the procedures described in Sections XIX and XX of this Policy, below.

### **XVI. Investigations Without a Complaint or Complainant**

When necessary to meet its commitment to provide an environment free of unlawful sexual misconduct or relationship violence, Rush may investigate allegations of sexual misconduct of which it becomes aware, even if no complaint has been filed, the individual(s) involved is unwilling to pursue a complaint or participate in an investigation, or the individual(s) involved have requested to participate anonymously.

### **XVII. Other Options for Resolution of Complaints**

Students who believe they are a victim of sex-based discrimination in an educational program may file a complaint under Title IX with the regional enforcement office of the Office for Civil Rights, U.S. Department of Education at the following address:

Office for Civil Rights  
Chicago Office  
U.S. Department of Education  
Citigroup Center  
500 W. Madison Street  
Suite 1475  
Chicago, IL 60661-4544  
312/730-1560  
312/730-1576 (fax)  
OCR.Chicago@ed.gov

## **XVIII. Procedural Options for Resolution of Reports Under this Policy**

Although reports under this Policy may come in through many sources as described above, Rush is committed to ensuring that all reports are referred to the Title IX Coordinator, who will ensure consistent application of the Policy to all individuals and allow Rush to respond promptly and equitably to eliminate the harassment, prevent its recurrence, and eliminate its effects.

### **A. Overview of Procedural Options**

Upon receipt of a report, Rush will conduct an initial assessment. The goal of this assessment is to provide an integrated and coordinated response to reports of prohibited conduct under this Policy. The assessment will consider the nature of the report, the safety of the individual and of the campus community, the Complainant's expressed preference for resolution, and the necessity for any interim measures or modifications to maintain the safety of the Complainant or the community.

Following this assessment, Rush may: 1) determine that the reported concern does not meet the criteria for a possible violation of this Policy (this determination may result in a referral to another Rush department or resource or result in no action taken); 2) seek alternative resolution that does not involve corrective action against a Respondent; or, 3) initiate an investigation to determine if corrective action is warranted. The goal of the investigation is to gather all relevant facts; make factual determinations; determine whether there is a violation under this Policy; and if warranted, refer the investigative conclusion for corrective action as appropriate.

At the conclusion of the investigation, the investigator will make a determination by a preponderance of the evidence whether sufficient information exists to support a finding of responsibility for violating this Policy. The specific procedures for corrective action will then occur as follows:

For complaints against employees or non-students, the investigative finding will be shared with the Respondent's direct supervisor who, in consultation with Human Resources, shall have disciplinary authority to impose appropriate corrective action.

For complaints against students, the investigative findings will be referred to the Outcome Council who shall have disciplinary authority to impose appropriate outcomes (i.e. sanctions).

Each resolution process is guided by the same principles of fairness and respect for all parties. All individuals who violate these standards will be held accountable for their behavior through a process that protects the rights of both the Complainant and the Respondent. Resources are available for both students and employees, whether as Complainants or Respondents, to provide support and guidance throughout the investigation and resolution of a report.

At the conclusion of the disciplinary process, both a Complainant and a Respondent will have the opportunity to appeal.

### **B. Time Frames for Resolution**

Rush will make every effort to resolve all reports within sixty (60) calendar days from the time a Complainant, or the University, decides to move forward with a concern. This time frame may be extended for good cause as necessary to ensure the integrity and completeness of the investigation, 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 to address other legitimate reasons. Parties will receive written notice of any extension of the timeframes and the reason for the extension. Best efforts will be made to complete the process in a timely

manner by balancing principles of thoroughness and fundamental fairness with promptness. However, Rush's failure to meet any of the timeframes outlined within this Policy in no case shall be grounds for dismissing any matter or review, nor shall it limit Rush's ability to complete an investigation, issue findings, impose outcomes, corrective actions, disciplinary actions, or limit the ability to take any other required administrative action pursuant to this Policy.

### C. Initial Assessment

Rush's Title IX Coordinator will conduct an initial assessment of every report that is referred to him or her. This assessment will be completed within five (5) calendar days of receiving a complaint. In the course of this assessment, the Title IX Coordinator will consider the interest of the Complainant and the Complainant's expressed preference for manner of resolution, as well as Rush's obligation to provide a safe and non-discriminatory environment for all community members. Where possible and as warranted by an assessment of the facts and circumstances, the Title IX Coordinator will seek action consistent with the Complainant's request.

As part of the initial assessment of the facts, the Title IX Coordinator will:

- Assess the nature and circumstances of the report;
- Address any immediate concerns about the physical safety and emotional well-being of the parties;
- 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;
- Provide the Complainant with information about:
  - On and off campus resources;
  - The available range of interim measures;
- An explanation of the procedural options, including alternative resolution, investigation, and corrective actions;
- Discuss the Complainant's expressed preference for manner of resolution and any barriers to proceeding;
- Explain Rush's prohibition on retaliation;
- Explain the role of a Support Person or Advisor;
- Explain availability of Confidential Advisors;
- Assess for potential pattern evidence or other similar conduct;
- Assess the reported conduct for the need for a timely notification under federal law;
- Enter non-identifying information about the report into Rush's daily crime report;
- Log if the conduct is potentially criminal in nature;

Where a Complainant requests that their name or other identifiable information not be shared with the Respondent or that no formal action be taken, the Title IX Coordinator will balance this request against the following factors in reaching a determination whether the request can be honored:

- The nature and scope of the alleged conduct, including whether the reported misconduct involves the use of a weapon;
- The respective ages and roles of the Complainant and Respondent;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether there have been other reports of misconduct by the Respondent;
- Whether the report reveals a pattern of misconduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;
- The Complainant's wish to pursue corrective action;
- Whether Rush possesses other means to obtain relevant evidence;
- Considerations of fundamental fairness with respect to the Respondent should the course of action include corrective action against the Respondent; and
- Rush's obligation to provide a safe and non-discriminatory environment.

Where possible based on the facts and circumstances, the Title IX Coordinator will seek action consistent with the Complainant's expressed preference for manner of resolution. Rush's ability to fully investigate and respond to a report may be limited if the Complainant requests that her or his name not be disclosed to the Respondent, or declines to participate in an investigation.

At the conclusion of the initial assessment, the Title IX Coordinator will determine the appropriate manner of action. Where Rush is unable to take action consistent with the request of the Complainant, the chosen course will be communicated to the Complainant. Action may include alternative resolution, a course of action that includes steps to limit the effects of the alleged misconduct and prevent its recurrence that do not involve formal corrective action against a Respondent or necessarily revealing the identity of the Complainant. Action may also include the initiation of a formal investigation that may lead to corrective action, either with the Complainant's participation or with Rush serving as the Complainant seeking resolution against a Respondent on its own behalf. Regardless of the course of action, a Respondent may choose to accept responsibility at any stage in the process.

#### D. Alternative Resolution

The alternative resolution is a remedies-based resolution designed to eliminate a hostile environment without levying corrective action against a Respondent. Where an initial assessment concludes that alternative resolution may be appropriate, Rush will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Complainant's access to the educational, extracurricular and employment activities at Rush and to eliminate a hostile environment. Examples of protective remedies include, but are not limited to:

- Access to counseling services;
- Imposition of a campus "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;
- Arranging 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 this Policy.

Other potential remedies include targeted or broad-based educational programming or training, supported direct confrontation of the Respondent and/or indirect action by the Title IX Coordinator. Depending on the form of alternative resolution used, it may be possible for a Complainant to maintain anonymity. Rush will offer mediation for appropriate cases, but will not compel a Complainant to engage in mediation, to directly confront the Respondent, or to participate in any particular form of alternative resolution. Mediation, even if voluntary, may not be used in cases involving sexual or relationship violence (non-consensual sexual contact). The decision to pursue alternative resolution will be made when Rush has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation in alternative resolution is voluntary, and a Complainant can request to end alternative resolution at any time.

The Title IX Coordinator will maintain records of all reports and conduct referred for alternative resolution, which will typically be complete within thirty (30) business days of the initial report.

#### E. Investigation

Where the Title IX Coordinator's initial assessment concludes that corrective action may be appropriate, Rush will initiate a formal investigation. All reasonable measures will be taken to protect the privacy of the parties and witnesses, to the extent possible. An investigator will investigate all complaints of discrimination, harassment and prohibited conduct that contain sufficient foundation that, if found to be true, support a violation of this Policy. The Complainant and Respondent will receive notice of the identity of the investigator at the outset of the investigation, and in all cases before he or she initiates contact with either party. Either party may request a substitution in the case of an actual or apparent conflict of interest. Rush will designate an investigator who has specific training and experience investigating allegations of harassment, discrimination, sexual harassment, sexual violence, relationship violence and stalking. The investigator may be a Rush employee or an external investigator engaged to assist Rush in its fact gathering. Any investigator chosen to conduct the investigation must be impartial and free of any actual conflict of interest.

The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial and fair, and all individuals will be treated with appropriate sensitivity and respect. As described in the Sections X and XVI above regarding confidentiality, the investigation will be conducted in a manner that is respectful of individual privacy concerns. Throughout the process, a Complainant or Respondent may have an Advisor or a Support Person, who may be an attorney, present at any meeting related to the investigation. See Section XXIV for information regarding Advisors and Support Persons.

The investigator will conduct interviews as necessary, review documents, and any other relevant information concerning the alleged discriminatory acts. The parties may provide any relevant information to the investigator, including the names of witnesses to contact and/or documents to review at any time before the investigation is closed. The Complainant and Respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. Witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character. Investigators will review and determine the weight and materiality of all submitted information and including the necessity of interviewing potential witnesses.

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. As noted in other sections of this Policy, 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.

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.

Any party seeking to introduce information about prior sexual history or pattern evidence should bring this information to the attention of the investigator at the earliest opportunity. Rush, through the investigator, may choose to consider this information, with appropriate notice to the parties. Where a sufficient informational foundation exists, the investigator, in consultation with the Title IX Coordinator, will assess the relevance, form, and reliability of the information (hearsay will not be permitted) and determine if it is appropriate for inclusion in the written investigation report.

The investigator has the discretion to consolidate multiple reports against a Respondent into one investigation if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident.

Rush will seek to complete the investigation within forty-five (45) calendar days of the Complainant's or the University's decision to move forward. This time frame may be extended for good cause with written notice to the parties of the delay and the reason for the delay. At the request of law enforcement, Rush may agree to defer its Title IX fact-gathering until after the initial stages of a criminal investigation. Rush will nevertheless communicate with the Complainant regarding Title IX rights, procedural options and the implementation of interim measures to assure the safety and well-being of all affected individuals. Rush will promptly resume its Title IX fact-gathering as soon as law enforcement has released the case for review following the initial criminal investigation.

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

After Rush decides to move forward with a formal investigation and the Complainant's initial interview is completed, the Respondent will be notified by the Title IX Coordinator that an investigation has been initiated. They will be notified in writing

and invited to an informational meeting to review the process and the resources available to them throughout the process. Each Respondent wishing to participate in an informational meeting will have five (5) calendar days after they receive notice to inform the Title IX Coordinator if they wish to have an informational meeting and ten (10) calendar days after receiving notice to complete the informational meeting with the Title IX Coordinator before the investigation moves forward.

After the Respondent has completed the informational meeting or the initial ten (10) calendar days from receiving notice have passed, the Respondent will be invited to complete an initial interview with an investigator. The initial interview must be completed within ten (10) calendar days of the request or the investigation will move forward without the Respondent's initial interview.

In most cases, investigators will have follow-up questions for the Complainant and Respondent after their respective initial interviews. Each participant will have three (3) calendar days to complete any follow up interview requested by an investigator. Follow up interviews may be completed by phone. If a follow up interview is not completed within the three (3) calendar days of the request by the investigator, the investigation will move forward without the follow up interview.

An extension of a deadline for exigent or emergency circumstances may be requested in writing from the Title IX Coordinator, who will have sole discretion to grant or deny the extension. The Title IX Coordinator may require proof to verify the emergency or exigent circumstance on which the request is based.

Information gathered during the review or investigation will be used to evaluate the responsibility of the Respondent, provide for the safety of the Complainant and the Rush campus community, and take appropriate measures designed to end the prohibited conduct, prevent its recurrence and address its effects.

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

## F. Investigation Report

At the conclusion of the investigation, the investigator will prepare a written report that summarizes the information gathered and synthesizes the areas of agreement and disagreement between the parties and any supporting information or accounts. In preparing the report, the investigator will review all facts gathered to determine whether the information is material to the determination of responsibility given the nature of the allegation. In general, the investigator may exclude information that is immaterial. The investigator may also exclude statements of personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty. An external investigation or report does not replace the investigative process under these procedures.

Before the report is finalized, as permitted by FERPA, the Complainant and Respondent will be given the opportunity to review the preliminary report and offer oral or written comment to the report. Each party will have five (5) calendar days from the time they receive notice that the preliminary report is ready for review to complete their review of the preliminary report. A Complainant and Respondent may submit any additional comment or evidence to the investigator within five (5) calendar days of the opportunity to review the report.

Upon receipt of any additional information by the Complainant or Respondent, or after the five (5) calendar day comment period has lapsed without comment, the investigator will make a finding as to whether there is sufficient information to establish, by a preponderance of the evidence, that a Policy violation occurred. The final written report will include the determination of responsibility and the rationale for the determination and will be issued within two (2) calendar days of either receipt of additional information by one or both parties, or after the five (5) day comment period has elapsed.

## G. Possible Conclusions to an Investigation

There are three possible conclusions to an investigation:

1. A violation of Policy;
2. No violation of Policy.
3. Regardless of whether or not there is a violation of Policy, the reviewed behavior may warrant educational outreach.

Once the investigation report has been finalized, the Title IX Coordinator will meet with the Complainant and Respondent individually during the pre-arranged time to share the decision made. The Complainant and Respondent may opt to speak by telephone or to receive the report by electronic email instead. This may or may not occur simultaneously based on the availability of the parties. The report includes determinations regarding responsibility for violating this Policy or any other applicable Rush Policy.

Following (or in lieu of) the meeting, the Title IX Coordinator will issue a letter of determination indicating whether or not a Policy violation occurred. This letter of determination shall be sent simultaneously to the Complainant, the Respondent, and the responsible administrators. Responsibility determinations are based on a preponderance of the evidence standard.

## **H. Investigative Finding**

### **i. Violation of Policy**

Where there is a determination of responsibility for a Policy violation, the Title IX Coordinator will refer the matter to the appropriate administrator for corrective action.

### **ii. No Violation of Policy**

Where there is no violation of the Policy, the parties will be notified pursuant to this Policy and no further action will be taken unless the decision is appealed. If a Respondent is an employee, her or his supervisor will be notified, who will determine if any further action is necessary. Likewise, if a Respondent is a student, the Dean of her or his College will be notified.

## **I. Appeal of No Violation of Policy Determination**

The Complainant has the right to appeal a finding of no violation of Policy through review of the final investigative report. Student appeals will be considered by the Senior Associate Provost of Educational Affairs who will provide a copy of the appeal to the Title IX Coordinator. Faculty and staff appeals will be considered by the Senior Vice President of Human Resources who will provide a copy of the appeal to the Title IX Coordinator.

Parties may appeal the finding by informing the appropriate administrator as designated in the written notice, and by submitting a written request for review within five (5) calendar days of receiving the finding.

Decisions regarding appeals pursuant to this section shall be communicated to the parties in writing within seven (7) calendar days after the conclusion of the review of the findings or sanctions.

## **XIX. Corrective Action**

The Title IX Coordinator does not have the authority to impose corrective action upon a finding of a violation of this Policy. The specific procedures for disciplinary action are as follows:

For complaints against faculty, staff or non-students, the investigative finding 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 impose appropriate corrective action.

For complaints against students, the investigative findings will be referred to the Outcome Council who shall have disciplinary authority to impose appropriate corrective action (i.e. sanctions).

In all cases, the Complainant and Respondent will receive notice of the identity of the individual(s) determining the appropriate corrective action at the outset of that process. Either party may request a substitution in the case of an actual or apparent conflict of interest.

Throughout the corrective action process, all reasonable measures will be taken to protect the privacy of the parties and witnesses, to the extent possible.

### **A. Corrective Action for Employees and Other Non-Students as Respondents**

#### **i. Disciplinary Authority**

The Respondent's supervisor, in consultation with Human Resources, will be responsible for deciding upon the corrective action. The supervisor or other responsible administrator will be responsible for imposing identified corrective action as soon as reasonably possible, but no more than ten (10) calendar days after receiving the final determination, unless extenuating

circumstances apply. The Respondent's supervisor or Human Resources shall notify the Title IX Coordinator of the corrective or disciplinary action imposed.

Within two (2) calendar days of any decision on the imposition of corrective action, the supervisor or Human Resources shall notify both the Complainant and Respondent (simultaneously, if possible) of the outcome, including the determination of responsibility and any corrective action that directly relates to the Complainant, as consistent with Rush policies and procedures related to the confidentiality of employee personnel files. The parties will also be notified of their options for appeal.

## ii. Appeal of Violation and Outcome Determination by Non-Student Respondents

Faculty or staff members who receive corrective action pursuant to this Policy may appeal said corrective action or the underlying determination of policy violation to the Senior Vice President of Human Resources, who will provide a copy of the appeal to the Title IX Coordinator.

Corrective action issued against employees who are subject to a collective bargaining agreement must pursue their appeal rights pursuant to the grievance procedures outlined in the agreement.

A non-student Complainant may appeal the corrective action imposed as it is applicable to her or him in writing to the Senior Vice President of Human Resources, who will provide a copy of the appeal to the Title IX Coordinator.

Decisions regarding appeals pursuant this section shall be communicated to the parties in writing within seven (7) days after the conclusion of the review of the findings or sanctions.

## B. Corrective Action for Students as Respondents

### i. Referral to the Outcome Council

The Title IX Coordinator refers cases where a determination of responsibility for violating this Policy has been made against a student Respondent to the Outcome Council. The Provost, or his/her designee, will convene an Outcome Council review, typically within five (5) calendar days. The Title IX Coordinator or designee will issue written notice in the form of a Letter of Determination to the Complainant and the Respondent.

### ii. Outcome Council Composition

The Outcome Council is the body responsible for making a neutral and impartial review of investigations and findings, and imposing outcomes (sanctions). It is not a hearing body. It meets independently to complete its review and make its determinations. Typically, the Outcome Council will be comprised of three (3) University Community members, including the Senior Associate Provost of Educational Affairs, an administrator from the Complainant's College appointed by the Provost, or his/her designee, and a faculty member or similar University employee appointed by the Provost, or his/her designee. Any individual designated by Rush must have sufficient training or experience to serve in this capacity. All Outcome Council members have specific training and experience in adjudicating allegations of harassment and discrimination, sexual harassment, sexual violence, relationship violence and stalking.

In order to be eligible to serve on the Outcome Council, individuals must meet the following requirements:

- Faculty must have been employed by and taught courses at Rush for at least one academic year. Faculty must also have taught at least one course within the most recent two academic terms.
- Staff must be currently employed full-time.

Outcome Council members have the following expectations:

- Approach each case without any preconceived ideas of responsibility of the parties involved prior to reading the Investigative Report;
- Thoroughly review all case materials prior to the Outcome Council being convened;
- Impose clear and proportionate outcomes for those found to be responsible for violations of Rush Policy;
- Individual board members are compelled to offer input during the deliberation process, allow for fellow members to be heard, and to consider differing views before a decision is reached;
- Remove himself/herself from a particular Outcome Council if there is the potential conflict of interest.

The Outcome Counsel must be comprised of neutral and impartial decision-makers. The Respondent and Complainant will be notified of the Outcome Council members who will be serving and have the right to object to the participation of any member based on a demonstrably significant bias. Such objections are due, with supporting information, to the administrator designated in the notice within two (2) business days. The designated administrator will review any concerns and determine if there is any merit to the assertion that an Outcome Council member may not be an objective, impartial, unbiased decision maker. The Respondent and Complainant will be notified if any changes to the Outcome Council composition have been made. If a new Outcome Council member has been designated, Respondent and Complainant will have one (1) calendar day to submit any objections to the new member to the Provost, or his/her designee, for review.

### iii. Outcome Council Procedures

When an Outcome Council is convened, the following procedures will be followed:

- The Outcome Council is officially called to order;
- The Outcome Council members review the specific finding(s) and Policy violation(s);
- The Outcome Council members may request additional information or clarification from the Title IX Coordinator and/or University Counsel;
- The Outcome Council makes determinations regarding appropriate sanctions.

### iv. Imposition of Outcome

The Outcome Council will consider the imposition of a sanction designed to eliminate the misconduct, prevent its recurrence, and remedy its effects, while supporting Rush's educational mission and Title IX obligations. Sanctions or interventions may also serve to promote safety or deter individuals from similar future behavior.

The Outcome Council is responsible for determining the appropriate sanction. The Outcome Council may impose any sanction deemed appropriate after a consideration of all of the relevant information.

The primary objectives when considering outcomes includes:

- Protecting the Rush community;
- Bringing the discriminatory conduct to an end;
- Taking steps reasonably calculated to prevent the future reoccurrence of the discriminatory conduct; and
- Restoring the Complainant to his or her pre-deprivation status, to the extent practical and possible.

In determining outcomes to meet these objectives, the following criteria are considered:

- Nature and severity of the act;
- Number of Complainants;
- Prior student conduct history of the Respondent;
- The Council's assessment of the effect of the act or Policy violation has on the Complainant, community and Rush environment; and/or
- Complainant and community safety.

The Outcome Council will reach a decision within five (5) calendar days of convening. The imposition of sanctions will take effect immediately and will not be placed on hold pending the resolution of the appeal.

### v. Range of Outcomes

Outcomes are assigned for the entirety of the incident(s) under review, not for each violation. All Outcomes will include an "Inactive" Outcome, and at least one appropriate "Active" Outcome. In general violations of the non-consensual sexual contact provision of this Policy typically result in a dismissal and do not include an Active Outcome.

**Inactive Outcomes** are those which define the student's status at Rush. These include the following:

#### a. Warning

A warning is given to notify a student that their behavior has been inconsistent with the expectations of the University. A

warning has no immediate effect upon a student's status at Rush. However, once given a warning, students should expect different Outcomes to result from any subsequent violations.

#### **b. Student Conduct Probation**

Probation serves to notify a student that they must avoid any further violations of Rush policies for a specified period of time in order to remain a student at Rush. Students on probation are not in good standing with Rush; as a result, certain co-curricular activities may be prohibited to a student while on probation. Any further violations while on probation may result in a student's suspension or dismissal from Rush.

#### **c. Deferred Suspension**

Deferred Suspension serves to notify a student that they must avoid any further violations of the Student Conduct Policies for a specific period of time in order to remain a student at Rush because his/her behavior has not met the standards expected by students. Different than Student Conduct Probation, when a student on Deferred Suspension is alleged to be involved with any subsequent violations of Policy, he/she will be issued an Interim Suspension until his/her responsibility in the subsequent incident can be determined. Students on Deferred Suspension are not in good standing with Rush; as a result, certain co-curricular activities may be prohibited. If found responsible for any further violations of Policy while on Deferred Suspension, a student will likely be dismissed from Rush.

#### **d. Suspension**

A student who has been suspended from Rush may not participate in any Rush activities, academic or otherwise, for a specific period of time, and will be restricted from all Rush premises and activities. A suspended student who wishes to re-enroll must apply for re-entry to Rush and must also apply to the Dean's office of his/her specific college. That Dean's office will determine whether any and all requirements for readmission have been satisfactorily completed. Rush does not accept courses completed at another institution while the student is suspended.

#### **e. Dismissal**

A student who has been dismissed from Rush is permanently prohibited from participating in any Rush activities, academic or otherwise, and will be restricted from all Rush premises and activities.

**Active Outcomes** may be assigned in order to facilitate the educational process. These Outcomes are intended to encourage a student to reflect on the impact of the decisions they have made and help students develop the skills necessary to be successful at Rush. Types of "Active" Outcomes include, but are not limited to:

#### **a. Written Assignments**

A student is required to write a reflection paper, maintain a journal, write a review of a Policy, etc.

#### **b. Worksheets**

A student is required to answer a series of questions designed to help them evaluate the decisions that led to the violation and avoid making similar decisions in the future.

#### **c. Programs & Activities**

A student is required to complete community service hours, attend a program, design a poster board, etc.

#### **d. Interventions**

The student is required to undergo a counseling assessment, complete a drug and/or alcohol treatment program, or attend a workshop, etc.

#### **e. Restrictions**

The student is restricted from contacting one or more individuals, hosting guests on campus, using Rush's computer network, etc.

#### **f. Referrals**

The student is referred to another process, such as mediation or counseling, to resolve some of the issues resulting from the violation.

Failure to complete any active outcome by the specified deadline will result in a hold being placed on a student's registration account with Rush, and may result in further action.

## vi. Notice of Outcome

Once the Outcome Council has rendered a finding, a member of the Outcome Council will offer the Respondent and Complainant the opportunity to meet individually to share the outcome decision made. These meetings will be scheduled within two (2) business days of the Outcome Council, and may occur simultaneously based on the availability and willingness of the parties. At this meeting, Written Notice to the Respondent and Complainant(s) will be provided and will include the Outcome determinations. The Respondent will be informed of any sanctions, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the requirements. The Complainant will be informed of any sanctions that directly relate to the Complainant. The outcome letter will also provide each party with their appeal options.

To meet the objectives of the Outcome Council, in the event that the Respondent is suspended or dismissed, the Respondent shall be immediately removed from the campus community while any appeal takes place. Should the Respondent successfully appeal the Outcome Council's decision, Rush will make every reasonable effort to return the Respondent to his or her previous status.

## XX. Appeal of Violation and Outcome Determination by Students

Either the Complainant or Respondent student may appeal Violation and Outcome determinations, pursuant to the applicable appeal criteria. Appeals will only be considered in the following circumstances:

- The existence of procedural error(s) is so substantial that it would likely alter the investigative findings and ultimate Outcomes;
- Presentation of new and significant evidence which was not reasonably available at the time of the initial investigation and would likely alter the investigative findings and ultimate Outcomes; and/or
- The Outcomes imposed are substantially disproportionate to the violation.

Mere disagreement with the decision is not grounds for appeal. The appellate process shall not re-hear a matter in part or in its entirety.

An appeal will only be considered if submitted to the Provost, or his/her designee identified in the written notice within five (5) business days of the date on the notice of the Outcomes. An extension of these deadlines may be requested if extenuating circumstances arise.

If an appeal is received from either the Complainant or Respondent, or both parties, the other party involved in the matter will be notified that an appeal has been received. The Provost, or his/her designee reserves the right to forward any and all portions of the appeal to the other party(s) as needed in order to address matters raised in the appeal. In such situations, the other party(s) will be given the opportunity to submit a written response, which will only be considered when provided to the Provost, or his/her designee within the expressed deadline. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The appeal is not a new review of the underlying matter.

If the Provost, or his/her designee determines that new evidence should be considered, the report will be returned to the Title IX Coordinator to be reviewed in light of the new information. If the Provost, or his/her designee determines that a material procedural error occurred, it may return the report to the Title IX Coordinator with instructions to reconvene the investigative process to cure the error. In rare cases where the procedural error cannot be cured (as in cases of bias), the Provost, or his/her designee may order a new review of the matter.

If the Provost, or his/her designee determines that the outcomes imposed are disproportionate to the violation, the Provost, or his/her designee may return the matter to the Outcomes Council with or without recommendations.

In cases where the appeal results in reinstatement to the institution or of privileges, all reasonable attempts will be made to restore the individual to his/her prior status, recognizing that some opportunities lost may be irretrievable in the short term.

The Provost, or his/her designee will communicate the result of the appeal to the Complainant and Respondent within five (5) business days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.

## XXI. Group Infractions

When members of a student group, organization, or team or individuals acting collusively act in concert in violation of this Policy, they may be charged as a group or as individuals, and an investigation may proceed against the group as joint Respondents or against one or more involved individuals as appropriate given available information and the circumstances. A student group, organization, or team's officers and membership may be held collectively and individually responsible when violations of this Policy by the organization or its members take place at organization sponsored events, have received the consent or encouragement of the organization or of the organization's leaders or officers, or was known or reasonably should have been known to the membership or its officers.

In any such action, separate Outcome Councils will be convened for each Respondent, however each Outcome Council may comprise the same members. Sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual.

## XXII. Records

When matters arising out of this Policy involve at least one student Respondent, a Student Conduct Record will be created. The Title IX Coordinator will be responsible for maintaining all official University records related to this Policy. A student's record will include copies of all cases in which a student is charged with violating this Policy as well as copies of correspondence and other documentation related to the Case.

The policies regarding the retention of student conduct records are as follows:

- Student Conduct files will be maintained for a period of no less than seven years following the most recent finding of violation.
- Student Conduct files of students who have been dismissed from Rush will be kept indefinitely.
- Rush will retain, as necessary, appropriate statistical information related to Policy violations in order to comply with legislative reporting requirements.

Release of Records: 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 applicable FERPA and other privacy laws.

Public Notification Policy: Rush recognizes the shared interest of the greater community in the resolution of matters arising under this Policy. Student Affairs will update their website on an annual basis with statistics on cases arising under this Policy. These statistics may include the number of students found responsible for violating this Policy, as well as a summary of the outcomes assigned under this Policy.

## XXIII. Additional Considerations

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

- The right to be treated with dignity and respect.
- The right to be informed of the relevant Rush policies that are involved.
- The right to a prompt and thorough investigation.
- The right to object to the participation of the assigned investigator, a member of the Outcome Council, or an appellate authority based on a 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, 24 hours before any meeting time.
- The right to privacy throughout the process to the extent possible and with the exception of 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 a pending investigation resulting from a report concerning a potential violation of this Policy. This notice will include the following:
  - A general statement concerning the provision of this Policy that has allegedly been violated;
  - The consequences and process 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 have a Support Person of his or her choice present throughout the process. The Support Person is a non-participating and silent observer.
- The right to seek the advice and assistance of an attorney at his or her own expense.
- The attorney may accompany the party to any meeting or proceeding under this Policy as an Advisor, but the attorney is a non-participating and silent observer.
- The responsibility to notify his or her support person of the time, date, and location of any meeting associated with the investigative process. Meetings need not be rescheduled to accommodate a support person.
- The responsibility to provide notification that a support person will be present for meetings no later than 48 hours before the scheduled meeting. Failure to provide names prior to the meeting may be grounds to exclude a support person.
- The responsibility to ensure Rush has been provided with an accurate address and other contact information so that notification is not unduly delayed.

## **XXIV. Advisors and Support Persons**

During any investigation, the Complainant and Respondent have the right to be assisted by an advisor of their choice, including an attorney. The advisor may accompany the Complainant or Respondent to any meeting with an investigator or a Rush employee or other proceeding. Any person who serves as an Advisor should plan to make themselves available for meetings throughout the process.

The Complainant and Respondent have the right to be assisted by a Support Person of their choice. The Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person may be present at proceedings to assist parties by taking notes, organizing documentation, or providing emotional support and reassurance.

Individuals serving as an Advisor or a Support Person shall meet with the Title IX Coordinator in advance of any proceedings to review and understand the expectations of their role, privacy considerations, appropriate behavior, and similar requirements.

Advisors and Support Persons may be present at any meeting or proceeding and may consult directly with the individual they are advising or supporting in a way that does not disrupt or delay any proceeding. Advisors or Support Persons may not be a witness, present information on behalf of any person, represent any person or position, or otherwise actively participate in any proceeding. Advisors and Support Persons may not attend a proceeding in the absence of the person they are advising or supporting. Advisors or Support Persons who act in a manner contrary to these guidelines or otherwise disrupt any proceeding may be excluded from that proceeding and/or future proceedings.

Complainants also have the right to a Confidential Advisor as described in Section IX above.

## **XXV. External Agreements**

Rush will not recognize or enforce agreements between the parties outside of these procedures. Rush will recognize, however, a lawfully issued protective order under Illinois law.

## XXVI. Resources

Persons who experience unwelcome sexual behavior or violence may respond to the experience in many different ways, including feeling confused, vulnerable, out of control, embarrassed, angry or depressed. If you or someone you know has been a victim of sexual misconduct in any form, please utilize the resources described in this Policy. Rush is committed to providing assistance, upon request, in accessing and navigating campus and local health and mental health services, counseling, and advocacy services.

The U.S. Government maintains a comprehensive website regarding sexual assault, including information about applicable laws, what to do as a victim of sexual assault, confidentiality, and key terms and definitions. The website can be located at [www.notalone.gov](http://www.notalone.gov).

### For more information on the Rush Medical Center Policy Against Sex Discrimination, Sexual Harassment and Sexual Misconduct Against Students, please contact:

Shanon Shumpert  
Equal Opportunity Officer & Title IX Coordinator  
Rush University Medical Center  
Armour Academic Center, Suite 403  
600 S. Paulina St.  
Chicago, IL 60612  
312/942-5239  
[Shanon\\_Shumpert@rush.edu](mailto:Shanon_Shumpert@rush.edu)

### For more information on Title IX of the Higher Education Act of 1972 please contact:

U.S. Department of Education Office for Civil Rights  
Lyndon Baines Johnson  
Department of Education Bldg.  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
800/421-3481  
202/453-6012 (fax)  
TDD: 800/877-8339  
[OCR@ed.gov](mailto:OCR@ed.gov) or [www.ed.gov](http://www.ed.gov)

### For additional support and resources please contact:

Rush University  
Division of Student Affairs  
600 S. Paulina St., Suite 440  
Chicago, IL 60612  
312/942-2819  
[Student\\_Affairs@rush.edu](mailto:Student_Affairs@rush.edu)

Rush University Medical Center  
Office of Human Resources  
600 S. Paulina St., Suite 403  
Chicago, IL 60612  
312/942-3456  
[Rush\\_HR@rush.edu](mailto:Rush_HR@rush.edu)

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

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)

Rush University Counseling Center  
Kidston House  
630 S. Hermitage, Ste. 701  
312/ 942-3687 (8:30 a.m. - 5:00 p.m.)  
[www.rushu.rush.edu/stucoun](http://www.rushu.rush.edu/stucoun)

Rush Assistance Program  
800/292-2780  
[www.ers-eap.com](http://www.ers-eap.com)  
User name: rush Password: rush

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

Rush Emergency Room  
1653 West Congress Parkway  
312/942-6428

Office of Medical Student Programs (OMSP)  
Armour Academic Center  
600 S. Paulina, Suite 512B  
Chicago, IL 60612  
312/942-6915

