

Table of Contents

A Culture of Respect: Rivier University Policy Regarding Prohibited Sex-based Harassment and Discrimination (the Policy)..... 2

I. Introduction & Overview: Institutional Values and Community Principles 2

1.1 Purpose 3

1.2 Scope 3

1.3 Jurisdiction..... 4

1.4 Collateral Misconduct/Concurrent Policies or Investigations 4

1.5 Prevention & Awareness 5

1.6 Role of Title IX Coordinator 5

II. Policy and Notice of Non-Discrimination on the Basis of Sex 7

2.1 Prohibited Sex-based Conduct 7

2.2 Other Prohibited Conduct 11

III. University Reporting Options 16

3.1 Employee Obligations 19

3.2 Reporting Considerations 21

3.3 Resources 23

3.4 Privacy and Confidentiality 25

3.5 Timely Warning 26

3.6 Initial Evaluation 27

3.7 Supportive Measures..... 27

3.8 Informal Resolution..... 28

3.9 Advisors..... 29

IV. Grievance Procedures for Complaints of Sex Discrimination or Harassment..... 30

4.1 Formal Complaints 30

4.2 Withdrawal of Complaint 31

4.3 Effect of Pending Complaint on Respondent 31

4.4 Basic Requirements of Title IX Grievance Procedures 31

4.5 Notice of Allegations 32

4.6 Dismissal of Complaint or Report 32

4.7 Safety and Remedial Measures, Including Emergency Removal..... 34

4.8 Acceptance of Responsibility	34
4.9 Investigation	34
4.10 Pre-Hearing Procedures	36
4.11 Investigative Report.....	38
4.12 Questioning the Parties and Witnesses.....	38
4.13 Determination Whether Sex Discrimination or Harassment Occurred	40
4.14 Disciplinary Sanctions or Remedies	42
4.15 Appeal of Determinations.....	43
4.16 Records	45

A Culture of Respect: Rivier University Policy Regarding Prohibited Sex-based Harassment and Discrimination (the Policy)

I. Introduction & Overview: Institutional Values and Community Principles

Rivier University is a Catholic coeducational institution founded by the Sisters of the Presentation of Mary. The University trusts that all members of the Rivier community enter voluntarily with knowledge and understanding of Rivier’s mission. Commitment to self-discipline and mutual respect towards one another is expected of all members of the University community and are essential elements of an environment centered on Christian principles.

The application of the Sex Based Discrimination and Harassment strives to ensure that we uphold our institutional values and community principles to maintain a community free from the harmful consequences of sexual and gender-based harassment. Harassment and discrimination threaten our ability to thrive personally, academically, and professionally at Rivier. Sexual misconduct, a form of sex discrimination, violates a person’s rights, dignity, and integrity and violates our community principles and the mission of the University.

Rivier University is committed to providing a non-discriminatory and harassment-free educational, living and working environment for all members of the Rivier community. The University maintains a community characterized by trust, mutual respect, and responsibility where all can feel secure and free from discrimination in the classroom; social, recreational, and residential environments; and the workplace. All members of the community are expected to adhere to the requirements of the law and to the standards of the University.

1.1 Purpose

To ensure compliance with federal, state, and local sex discrimination laws and regulations, and to affirm a commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, Rivier University has developed policies and procedures that provide for prompt, fair, and impartial resolution of allegations of sex discrimination, sex-based harassment, and/or retaliation.

Rivier University does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides that:

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

Title IX is enforced by the Office for Civil Rights within the U.S. Department of Education, which has promulgated regulations explaining and implementing Title IX. Sex discrimination and sexual harassment are also prohibited under Title VII of the Civil Rights Act of 1964, and the New Hampshire Human Rights Act, the regulations of both the Equal Employment Opportunity Commission and the New Hampshire Commission for Human Rights, and other applicable statutes.

This Policy reaffirms Rivier's institutional values, defines community expectations, provides recourse for those individuals whose rights have been violated, and provides procedures for determining when this Policy has been violated. Any member of the University community who is found to have violated this Policy may face disciplinary sanctions up to and including expulsion for students or termination of employment for employees. In all instances, the University will bear the responsibility for investigating and taking appropriate action, including any decision to seek disciplinary action.

1.2 Scope

This Policy addresses all forms of sex discrimination and sex-based harassment, sexual assault, stalking, and intimate partner violence, including dating and domestic violence, and may be applied to incidents, patterns, or to the institutional climate, all of which may be addressed in accordance with this Policy. This Policy applies to all employees, students, and other individuals participating in or attempting to participate in the University's program or activities, including education and employment.

This Policy is only applicable to alleged incidents that occur on or after August 1, 2024. For alleged incidents of sex discrimination or sexual harassment occurring prior to August 1, 2024, the University will apply the Policy that was in place at the time of the alleged misconduct. Where the conduct occurred prior to the effective date but the complaint is made on or after the effective date, the University will apply the procedures under this Policy. Where a complaint was made prior to the effective date, the University will apply the procedures in place at the time of the complaint. Applicable versions of prior policies and procedures are available from the Title IX Coordinator.

The University recognizes that sex discrimination and sex-based harassment can occur in conjunction with misconduct related to an individual's race, color, national or ethnic origin, religion, age, disability, or other protected statuses. In the event alleged discrimination is reported to be based on more than one protected status, including sex, the University will coordinate the investigation and resolution efforts to address harassment related to the targeted individual's sex, gender, gender identity or expression, or sexual orientation together with the conduct related to the targeted race, color, national or ethnic origin, religion, age, disability or other statuses.

1.3 Jurisdiction

This Policy applies to Rivier University's education programs and activities (defined as including locations, events, or circumstances in which Rivier exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where the University has disciplinary authority, and to misconduct occurring within any building owned or controlled by the University or any Rivier-recognized student organization. A Complainant does not have to be a member of the Rivier community to report concerns.

While Rivier does not have an obligation under the current Title IX regulations to address conduct that occurs wholly outside of the United States, Rivier University recognizes that all community members are responsible for their actions and behavior, and are required to follow University policies and local, state, and federal law. This policy applies to conduct occurring on Rivier University property or at university-sanctioned events or programs that take place off campus, including, but not limited to, study abroad, internship programs, community-engaged learning, and athletics events. In situations where both the Complainant and Respondent are members of the Rivier University community, this policy will apply regardless of the incident's location. In particular, off-campus conduct that is likely to have a substantial adverse effect on, or poses a threat of danger to, any member of the Rivier University community or Rivier University is covered under this policy.

1.4 Collateral Misconduct/Concurrent Policies or Investigations

Collateral misconduct is defined to include potential violations of other University policies not incorporated into this Policy that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures.

In such circumstances, the Title IX Coordinator may consult with Rivier officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the discretion of the University. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the student, faculty, and staff handbooks.

The University encourages individuals to pursue criminal action for incidents of sexual harassment, sexual violence, stalking, and intimate partner violence that may also be crimes under New Hampshire or federal criminal statutes. The University's policy, definitions, and standard of proof may differ from criminal law. The University will not wait for the conclusion of any criminal investigation or proceedings

to commence its own investigation using the procedures outlined here except at the request of law enforcement during the initial evidence gathering stages of a criminal investigation. Neither law enforcement's decision whether or not to prosecute a Respondent nor the outcome of any criminal prosecution are determinative of whether sexual harassment, sexual violence, stalking, or intimate partner violence has occurred under this Policy.

1.5 Prevention & Awareness

Rivier is committed to providing a comprehensive and integrated prevention, education, and awareness program that attends to the multifaceted dynamics of sexual harassment, sexual violence, stalking, and intimate partner violence. The University strives to create a non-discriminatory and harassment-free living, learning, and working environment for all members of the Rivier community, including students, staff, faculty, and visitors. The Rivier Title IX Coordinator oversees all University education and prevention programs and develops initiatives to respond to campus needs and climate.

All incoming students and new employees will receive primary prevention and awareness programming as part of their orientation. Returning students and employees will receive ongoing training and education on a periodic basis, and the University will also provide prompt training to current employees who move into new roles if their duties under Title IX change in the new role. Educational programs focused on sexual misconduct include an overview of the University's policies and procedures, relevant definitions, including prohibited conduct, discussion of the impact of alcohol and illegal drug use, effective consent, safe and positive options for bystander intervention, and information about risk reduction. The Title IX Coordinator oversees the education and prevention calendar and tailors programming to campus needs and legal climate. All educational programs include a review of resources and reporting options available for students, faculty and staff.

1.6 Role of Title IX Coordinator

The Title IX Coordinator oversees the University's centralized review, investigation, and resolution of reports of sexual harassment, sexual violence, stalking, and intimate partner violence. The Title IX Coordinator also coordinates the University's compliance with Title IX and other applicable statutes.

The Title IX Coordinator is:

- Responsible for oversight of the investigation and resolution of all reports of sexual harassment, sexual violence, stalking, and intimate partner violence involving students, staff, administrators, faculty, vendors, and visitors;
- Supported by the [Student Experience](#) staff (primarily the Vice President and Assistant Vice President);
- Knowledgeable and trained in university policies and procedures and relevant state and federal laws;
- Available to provide information to any individual, including a Complainant, a Respondent or a third party, about the courses of action available at the University, both informally and formally, and in the community;
- Available to provide assistance to any University employee regarding how to respond appropriately to a report of sexual harassment, sexual violence, stalking, or intimate partner violence;

- Responsible for monitoring full compliance with all procedural requirements and timeframes outlined in this policy;
- Responsible for overseeing training, prevention and education efforts and periodic reviews of climate and culture; and
- Responsible for compiling annual reports.

Inquiries or complaints concerning the application of Title IX may be referred to the University's Title IX Coordinator and/or to the U.S. Department of Education's Office for Civil Rights or New Hampshire Human Rights Commission.

Colleen Mills, Director of Human Resources, Title IX Coordinator: Molloy Hall

603-897-8211

cmills@rivier.edu

titleixcoordinator@rivier.edu

Paula Randazza, Assistant Vice President of Student Experience, Deputy Title IX Coordinator

Dion Center

603-897-8244

prandazza@rivier.edu

titleixcoordinator@rivier.edu

New Hampshire Human Rights Commission

2 Industrial Park Drive

Concord, NH 03301

603-271-2767

Office for Civil Rights, U.S. Department of Education, Boston Office

5 Post Office Square, 8th Floor

Boston, MA 02109

617-289-0111

Fax: 617-289-0150

ocr.boston@ed.gov

Inquiries involving employees may be referred the Title IX Coordinator or to the following government agencies:

United States Equal Employment Opportunity Commission, Boston Office

John F. Kennedy Federal Building

475 Government Center

Boston, MA 02203

800-669-4000

Fax: 617-565-3196

www.eeoc.org

II. Policy and Notice of Non-Discrimination on the Basis of Sex

Rivier University does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived sex. The University seeks to comply with all federal, state, and local laws and regulations prohibiting sex discrimination in post-secondary education institutions.

The University is dedicated to ensuring access, fairness and equity for all persons in its educational programs, related activities and employment, including those groups who have faced historical barriers to full and fair integration and participation. Rivier University maintains a continuing commitment to identify and eliminate discriminatory practices in every phase of university operations and will promptly and effectively address any such discrimination of which it has knowledge/notice using the resolution process in the Sex Discrimination, Sex-Based Harassment, and Retaliation Procedures.

2.1 Prohibited Sex-based Conduct

Students and employees are entitled to an educational and employment environment that is free of sex discrimination, sex-based harassment, and retaliation. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive, subject matters protected by academic freedom.

The sections below describe the specific forms of legally-prohibited sex discrimination, sex-based harassment, and retaliation that are also prohibited under this Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of this Policy, though supportive measures will be offered to those impacted.

All definitions below encompass actual and/or attempted offenses. Any of the following can be charged as, or combined as, pattern offenses, in which case equal and timely notice to both parties will clearly indicate that all individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is a potential substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions.

The University prohibits the following conduct:

Sex Discrimination

Sex discrimination is treating someone differently with respect to their employment or participation in an education program or activity based, in whole or in part, upon the person's actual or perceived sex.

Sex discrimination includes:

- 1) Disparate Treatment: any intentional differential treatment of a person or persons that is based on a person's actual or perceived sex and that:
 - Excludes a person from participation in;
 - Denies a person benefits of; or

- Otherwise adversely affects a term or condition of a person's participation in a Rivier program or activity.
- 2) Disparate Impact: when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on the basis of sex that:
- Excludes a person from participation in;
 - Denies a person benefits of; or
 - Otherwise adversely affects a term or condition of a person's participation in a Rivier program or activity.

Sex-based Harassment

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassing conduct based on sex, including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Harassing conduct of a sexualized nature includes, but is not limited to, unwanted conduct such as sexual advances, requests for sexual favors, and other verbal, written visual, or physical conduct of a sexual nature expressing sexual attention or coercion for sexual favors. It includes sexual assault and other acts of sexual violence.

Sex-based harassment:

- May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated;
- Does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents;
- May include physical conduct such as unwelcome touching or restraining; verbal conduct such as derogatory comments, epithets, slurs, or humor, verbal abuse including degrading comments or sexually explicit statements; visual or non-verbal conduct such as leering, making sexual gestures, displaying suggestive objects or pictures; and/or written conduct such as letters, notes, or electronic communication containing explicit or obscene words or images;
- May be committed by anyone, regardless of gender, age, position or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational or employment relationships, harassment can occur in any context;
- May be committed by a stranger, an acquaintance, or someone with whom the Complainant has an intimate or sexual relationship;
- May be committed by or toward an individual or may be a result of the actions of an organization or group;
- May occur by or toward an individual of any sex, gender identity, gender expression or sexual orientation;
- May occur in the classroom, in the workplace, in residential settings, or in any other setting;
- May be a one-time event or can be part of a pattern of behavior;
- May be committed in the presence of others or when the parties are alone; and
- May affect the Complainant and/or third parties who witness or observe harassment and are affected by it.

Sex-based harassment is defined specifically as:

- 1) *Quid pro quo harassment*. An employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the Rivier's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- 2) *Hostile environment harassment*. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - The degree to which the conduct affected the Complainant's ability to access the University's education program or activity;
 - The type, frequency, and duration of the conduct;
 - The parties' ages, roles within the University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - The location of the conduct and the context in which the conduct occurred; and
 - Other sex-based harassment in the University's education program or activity;

3) *Specific offenses*:

Sexual Assault: an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

Sexual Assault – Rape

Vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact without consent of the victim. (In pursuit of criminal charges, New Hampshire state law requires proof of an element of force or threat of force. This Policy does not contain that requirement.)

Sexual Assault – Fondling

Fondling is the touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim.

Sexual Assault - Statutory Rape

Sexual intercourse with a person who is under the statutory age of consent, which is 16 years old in New Hampshire.

Sexual Assault – Incest

Non-forcible sexual intercourse between persons who are related to each other within the degree wherein marriage is prohibited by law.

Dating Violence: violence committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (1) The length of the relationship;
- (2) The type of relationship; and
- (3) The frequency of interaction between the persons involved in the relationship;

Domestic Violence: felony or misdemeanor crimes committed by a person who: (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the University, or a person similarly situated to a spouse of the victim; (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shares a child in common with the victim; or (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or

Stalking: engaging in a course of conduct (a pattern of behavior of two or more acts over a period of time) directed at a specific person that would cause a reasonable person to: (A) Fear for the person's safety or the safety of others; or (B) Suffer substantial emotional distress. (The feared harm or injury may be physical, emotional, or psychological, or related to the personal safety, property, education, or employment of that individual.)

Examples of stalking may include, but are not limited to:

- Non-consensual communication including telephone calls, text messages, email messages, social network site postings, letters, gifts, or any other communications that are unwanted and/or place another person in fear;
- Following, pursuing, waiting or showing up uninvited at a classroom, workplace, residence, or other locations frequented by the person;
- Leaving unwanted written messages, objects or gifts;
- Vandalizing a person's property;
- Surveillance and other types of observation by physical proximity or electronic means,
- Accessing email and social media accounts;
- Cyber-stalking, a particular form of stalking in which technological means are used to pursue, harass, or make unwelcome contact with another person in an unsolicited fashion which may include the Internet, emails, social media, or blogs; landlines and cell phones; text messaging; global positioning systems; spyware on a person's computer or cellphone; or other similar devices or forms of contact;
- Spreading lies or rumors about a person, for example, filing false reports, posting or distributing personal or false information;
- Manipulative or controlling behaviors, such as threats to harm oneself in order to force contact;
- Assaulting or killing the victim's pet;
- Threatening physical contact against a person or their friends and family; or
- Any combination of these behaviors directed toward an individual person.

Sexual Exploitation

Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited.

Examples of sexual exploitation include, but are not limited to:

- Surreptitiously observing another individual's nudity or sexual activity or allowing another individual or group to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Non-consensual sharing or streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
- Distributing sexually intimate or sexual information about another person;
- Prostituting an individual;
- Inducing another to expose their own genitals in non-consensual circumstances;
- Knowingly exposing another individual to a sexually transmitted infection (STI) or virus without their knowledge;
- Sexually-based stalking and/or bullying;
- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity; and
- Knowingly assisting another person with committing an act of sexual misconduct.

2.2 Other Prohibited Conduct

Consensual Relationships: The University is committed to the principle that its personnel shall carry out their duties in an objective and ethical fashion and in an atmosphere in which conflicts of interest are identified and managed. The University does not interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the University. However, consensual romantic or sexual relationships in which one party retains a direct supervisory or evaluative role over the other party have the potential to interfere with these goals and policies. Therefore, consistent with its commitment to objectivity and ethical behavior, the University is required to intervene in such circumstances.

A romantic, intimate, or sexual relationship in which one individual is able to exercise authority over the other creates conflicts of interest and perceptions of undue advantage or disadvantage. When both parties have consented at the outset to a romantic, intimate, or sexual relationship, this consent does not remove grounds for a charge of conflict of interest, sexual harassment, or violation of applicable sections of the appropriate handbook (faculty, staff, student), based upon subsequent unwelcome conduct.

Individuals are expected to report any past, pre-existing, or current consensual relationships that could present a perceived or actual conflict of interest to the Vice President for Student Experience and/or the Office of Human Resources.

Indecent Exposure: A person commits indecent exposure if that person intentionally shows their genitals in a public place or in another place where there are other persons present under circumstances in which one knows or should know that this conduct is likely to affront or alarm.

Non-Consensual Sexual Contact: Non-consensual sexual contact is defined as having intentional physical contact of a sexual nature with another individual:

- By the use of force or threat of force;
- Without consent; or
- Where that individual is incapacitated or physically and/or mentally unable to make informed and reasonable judgments.

Non-consensual sexual contact includes: touching the intimate parts of another; touching a person with one's own intimate parts; forcing a person to touch another's intimate parts; forcing a person to touch one's own intimate parts; or disrobing or exposure of another without permission. Intimate parts may include the breasts or chest, genitals, buttocks, groin, mouth or any other part of the body that is touched in a sexual manner, or the clothing covering the same.

Physical Assault: Physical assault is a purposeful action meant to threaten or endanger the health or safety of any person. Examples include, but are not limited to, fighting, pushing, kicking, punching, hitting with or throwing an object at, or biting. This behavior is typically treated as a violation of the Rivier Code of Student Conduct and the Employee Conduct policy. When these acts occur in the context of intimate partner violence or when the behavior is perpetrated on the basis of sex or gender, the misconduct will be resolved under the Sex Based Harassment and Discrimination Policy.

Retaliation: Any act or attempt to retaliate or seek retribution against any individual or group of individuals involved in the report, investigation and/or resolution of an allegation of sexual misconduct or harassment. Forms of retaliation include intimidation, threats, pressuring, harassment, continued abuse or violence, slander and libel, or preventing participation in university activities or proceedings. Retaliation can be committed by any individual or group of individuals, not just a Respondent or Complainant. Retaliatory conduct by community members and third parties is prohibited regardless of whether it occurs on or off campus, in person, or through social media, e-mail, or other forms of communication.

Any form of retaliation should be reported to the Title IX Coordinator immediately. The University cannot take steps to stop retaliation until it is reported. Once notified, the University will take immediate and responsive action to any report of retaliation and may pursue charges and disciplinary proceedings under this Policy, independent of the sanction or protective measures imposed in response to the underlying allegations of sexual misconduct or harassment. Disciplinary action may include termination of employment or dismissal from the University.

Unauthorized Disclosure: distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by the University; or publicly disclosing institutional work product that contains personally identifiable information without authorization or consent.

2.4 Definitions

Coercion: the use of pressure that compels another individual to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, implied threats or blackmail which places a person in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual activity. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include threatening to "out" someone based on sexual orientation, gender identity or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity. Coercing an individual into engaging in sexual activity violates this policy in the same way as physically forcing someone into engaging in sexual activity.

Complainant: (1) A student or employee who is alleged to have been subjected to conduct that violates of this Policy; or (2) A person other than a student or employee who is alleged to have been subjected to conduct that violates of this Policy and who was participating or attempting to participate in the University's education program or activity at the time of the alleged sex discrimination.

Complaint: an oral or written request to the Title IX Coordinator that objectively can be understood as a request for the University to investigate and make a determination about alleged discrimination under this Policy.

Consent: an active, conscious, and voluntary decision by each participant to engage in mutually agreed-upon sexual activity. Consent must exist from the beginning to the end of each sexual activity or each form of sexual contact. An individual who is physically incapacitated by alcohol or other drug consumption (voluntary or involuntary) or is asleep, unconscious, unaware, or otherwise physically helpless is considered unable to give consent. All parties must obtain mutually understandable consent before continuing further sexual activity. Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all stages of sexual activity. The following are essential elements of consent:

Informed and Reciprocal: All parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way.

1. **Freely and Actively Given:** Consent cannot be gained by force, coercion, deception, threats; by ignoring or acting in spite of the objections of another; or by taking advantage of the incapacitation of another individual.
2. **Mutually Understandable:** Consent consists of mutually understandable words and/or actions that indicate an unambiguous willingness to engage freely in sexual activity. In the absence of clear communication or outward demonstration, there is no consent. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. Consent may not be inferred from silence, passivity, lack of resistance or lack of active response. Relying solely upon non-verbal communication can lead to a misunderstanding or false conclusion as to whether consent was sought or given. If at any time during the sexual activity, an individual is hesitant, confused, uncertain, or is no longer an enthusiastic participant, both parties should stop and clarify verbally the other's willingness to continue before continuing such activity.

3. Not Indefinite: Either Party may withdraw consent at any time. Withdrawal of consent may be expressed by “no” or outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once consent is withdrawn, sexual activity must cease immediately.
4. Not Unlimited: Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Each participant in a sexual encounter must consent to each form of sexual contact with each participant.
Individuals with a previous or current intimate relationship do not automatically give either initial or continued consent to sexual activity. Even in the context of a relationship, consent must be based on mutually understandable communication that clearly indicates a willingness to engage in sexual activity each time such activity occurs. The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.
5. Statutory: In the State of New Hampshire, sex with a minor under 13 is strictly illegal regardless of age. Sex with a minor 13-16 is a felony, unless the offender is under 18. Sex with a minor 16-17 is a misdemeanor if the offender is under 21.

Disciplinary Sanctions: consequences imposed on a Respondent following a determination under that the Respondent violated this Policy.

Employee: For the purposes of the policy, “employee” refers to all faculty and staff, including members of the administration and instructional staff.

Force: the use or threat of physical violence, intimidation, or coercion to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity. Such action would cause a person to fear for their physical or psychological well-being. For the use of force to be demonstrated, there is no requirement that a Complainant resists the sexual advance or request. However, resistance by the Complainant will be viewed as a clear demonstration of non-consent.

Incapacitation: a state where an individual cannot make an informed and rational decision to engage in sexual activity because they lack conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction). Incapacitation is defined as the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically unable to make informed, reasonable judgments. An individual is incapacitated, and therefore unable to give consent, if they are asleep, unconscious, or otherwise unaware that sexual activity is occurring.

Incapacitation may result from the use of alcohol and/or drugs. Incapacitation is a state beyond drunkenness or intoxication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person; however, warning signs that a person may be approaching incapacitation include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness, loss of consciousness, or emotional volatility.

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's:

- decision-making ability;
- awareness of consequences;
- ability to make informed judgments; or
- capacity to appreciate the nature and the quality of the act.

Evaluating incapacitation also requires an assessment of whether a person should have been aware of the individual's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a reasonable person.

An individual who engages in sexual activity with someone the individual knows or reasonably should know is incapable of making a rational, reasonable decision about whether to engage in sexual activity is in violation of this policy and is a crime in the State of New Hampshire. (NH RSA 632-A)

Party: a Complainant or Respondent.

Relevant: related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

Remedies: means measures provided, as appropriate, to a Complainant or any other person the University identifies as having had their equal access to the University's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the University's education program or activity after the University determines that sex discrimination occurred.

Report: a notification to the Title IX Coordinator about an alleged violation of this Policy that does not contain a request for the University to investigate and make a determination about alleged discrimination under this Policy.

Reporting Party: an individual who notifies the University about a potential violation of this Policy but who is not themselves the victim of the alleged misconduct.

Respondent: means a person who is alleged to have violated this Policy.

Third Party: any other participant in the process, including an individual who makes a third-party report, participates in an investigation or disciplinary process as a witness, or is affected by any prohibited conduct.

Severity:

- The frequency of the speech or conduct;
- The nature of the speech or conduct;
- Whether the conduct was physically threatening;
- Whether the speech or conduct was humiliating;
- The effect of the speech or conduct on the Complainant's mental and/or emotional state;
- Whether the speech or conduct was directed at more than one person;
- Whether the speech or conduct arose in the context of other discriminatory conduct.

Sexual Violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to incapacitation. Intimate partner violence refers to any act of violence or threatened act of violence, sexual or otherwise, against a person who is or has been involved in a sexual, dating, domestic or other intimate relationship with that person.

Standard of Proof: The University will determine the Respondent's responsibility by the preponderance of the evidence standard which is whether the information provided supports a finding that it is "more likely than not" that the Respondent is responsible for the alleged violation.

Supportive measures: individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to: (1) Restore or preserve that party's access to the University's education program or activity, including measures that are designed to protect the safety of the parties or the University's educational environment; or (2) Provide support during the University's grievance procedures or during an informal resolution process.

III. University Reporting Options

The University encourages all individuals to report sexual misconduct and harassment to the Title IX Coordinator or a member of Public Safety and Security. These individuals are trained annually on issues related to sex-based discrimination and harassment and receive specific instruction about respecting and safeguarding private information. **The University cannot take appropriate action unless an incident is reported.**

Any individual with knowledge of a potential violation of this Policy is encouraged to report the alleged misconduct to the University regardless of where the incident occurred, or who committed it. The University has jurisdiction to take disciplinary action against a Respondent who is a current student or employee. Even if the University does not have jurisdiction over the Respondent, the University will take prompt action to provide for the safety and well-being of the Complainant and the broader campus community using all available resources.

Students filing reports may request that the University initiate its formal resolution option, its informal, remedies-based resolution option, or request the University take no action.

At the time a report is made, a Complainant does not have to decide whether or not to request disciplinary action. Choosing to make a report and deciding how to proceed after making the report

can be a process that occurs over time. To the extent possible, the University will respect an individual's autonomy in making these decisions and provide support that will assist each individual in making that determination.

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 University will balance this request with its dual obligation to provide a safe and non-discriminatory environment for all Rivier community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before disciplinary action is taken against a Respondent.

In making this determination, the University may consider:

- The seriousness of the alleged conduct;
- The respective ages and roles of the Complainant and Respondent;
- Whether there have been other complaints or reports of harassment or misconduct against the Respondent;
- The rights of the Respondent to receive notice and relevant information before disciplinary action is sought;
- If circumstances suggest there is an increased risk of the Respondent committing additional acts of sexual misconduct or other violence;
- Whether the Respondent has a history of arrests or records from a prior school indicating a history of violence;
- Whether the alleged perpetrator threatened further sexual violence or other violence against the student or others;
- Whether under the circumstance there is a continuing threat to the community;
- Whether the sexual misconduct was committed by multiple perpetrators;
- If the circumstances suggest there is an increased risk of future acts of sexual misconduct under similar circumstances;
- Whether the sexual violence was perpetrated with a weapon; and
- Whether the school possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

The Title IX Coordinator retains the authority to make the final decision regarding which method of resolution shall be used. In making this decision, the Title IX Coordinator shall assess the above factors, consult with the Title IX team (Student Experience staff, as appropriate), and consider the Complainant's preferred means of resolution. The Title IX Coordinator in consultation with the Title IX Team will evaluate requests for confidentiality.

A Report provides notice to the University of an allegation or concern about sex discrimination, sex-based harassment, or retaliation and provides an opportunity for the Title IX Coordinator to provide information, resources, and supportive measures. A Formal Complaint provides notice to the University that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a report and may decide at a later time to make a Complaint.

Reporting carries no obligation to initiate a Complaint, and in most situations, Rivier University is able to respect a Complainant's request to not initiate a resolution process. However, there may be circumstances, such as pattern behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where the University may need to initiate a resolution process. If a Complainant does not wish to file a Complaint, the University will maintain the privacy of information to the extent possible.

Reports or Complaints of sex discrimination, sex-based harassment, and/or retaliation may be made using any of the following options:

On Campus Reporting Options

Colleen Mills, Director of Human Resources, Title IX Coordinator

Molloy Hall

603-897-8211

cmills@rivier.edu

titleixcoordinator@rivier.edu

Paula Randazza, Assistant Vice President of Student Experience, Title IX Deputy

Dion Center

603-897-8244

prandazza@rivier.edu

titleixcoordinator@rivier.edu

Public Safety and Security

Dion Center

603-888-1666

Open 24 hours a day, 7 days a week

Confidential Reporting

On-campus, confidential resources are also available to students including counselors in Rivier Counseling and Wellness Center, medical providers in Rivier Student Health Services, assigned confidential resource advisor, and ordained clergy (typically the University Chaplain). Employees may access confidential assistance through the Employee Assistance Program as well.

Community resources for students and employees include [Bridges: Domestic & Sexual Violence Support](#) and the [New Hampshire Coalition Against Domestic and Sexual Violence](#).

Information shared with these resources will remain confidential and will not be shared with the University or anyone else without express permission of the individual seeking services. Conversations with these individuals do not constitute reports to the University and do not initiate any investigative response.

When a report involves suspected abuse of a minor under the age of 18, these confidential resources are required by state law to notify The Division for Children, Youth and Families. DCYF contacts the local DCYF Office and the local law enforcement agency. An individual who has experienced sexual

misconduct may also seek assistance from a medical provider. In general, the disclosure of private information contained in medical records is protected by the Health Insurance Portability and Accountability Act (HIPAA). The individual has the right to request that a sexual assault advocate be present and to request that law enforcement not pursue a criminal charge. Neither campus nor community medical providers will notify the University of the report.

Anonymous statistical information must be shared with public safety where required by the Clery Act. Annual Clery reporting to the U.S. Department of Education is required by educational institutions. The information contained in the Clery Report only tracks the number of Clery-reportable offenses occurring at campus locations or University-sponsored programs (e.g., study abroad) and does not include the names or any other identifying information about the person(s) involved in the report.

Anonymous Reporting

Any individual may make an anonymous report concerning an act of sexual misconduct. An individual may report the incident without disclosing their name, identifying the Respondent, or requesting any action. Depending on the extent of information available about the incident or the individuals involved, however, the University's ability to respond to an anonymous report may be limited.

The University's anonymous reporting system is called Silent Witness and can be found on our [website](#). Silent Witness is NOT a 911 or emergency service. If you require immediate or emergency assistance, please contact the Rivier Public Safety and Security at 603-888-1666 or dial 911.

The Title IX Coordinator will receive the information contained in the anonymous report and will determine any appropriate response or action, including individual or community remedies as appropriate. In consultation with the Director of Public Safety and Security, the Title IX Coordinator will determine if the anonymous report provides sufficient information to submit a Clery crime report.

3.1 Employee Obligations

With the exception of those employees who have legally-recognized confidentiality or who are listed as Confidential Support Resources in this Policy, all University employees, including student employees, are required to promptly notify the Title IX Coordinator if they become aware of conduct that reasonably may constitute sex discrimination, sex-based harassment, retaliation, and/or other prohibited conduct under this Policy.

All non-confidential employees are required to share with the Title IX Coordinator all information of which they are aware regarding the potential violation, including the identities of the parties involved, if known. Disclosure of sexual and/or gender-based violence misconduct to any of these individuals will initiate a response from the Title IX Coordinator or designee in order to ensure that all students and employees have the information they need to make a report and receive supportive measures.

Before a Complainant or Reporting Party reveals information that they may wish to keep confidential, non-confidential employees should make every effort to ensure that the Complainant or Reporting Party understands:

- the employee's obligation to report the name of the Respondent involved in the alleged violation, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX Coordinator;
- the Complainant or Reporting Party's option to request that the University maintain confidentiality, which the University will consider;
- the Complainant or Reporting Party's ability to share information with confidential resources as described in the section above.

Confidential Employees are specifically designated by role and/or licensure. Confidential employees include counselors, nurses, and clergy when acting in the scope of their employment. New Hampshire state law also requires the University to designate a Confidential Resource Advisor (CRA) based on their experience and ability to provide victim services related to sexual misconduct.

The University's CRA is:

Emily Daversa, Director of Campus Ministry and Service Learning

Dion Center

603-897-8577

edaversa@rivier.edu

The CRA shall inform the student or employee, or provide resources about how to obtain, including in written format:

- Reporting options and the effects of each option;
- Counseling services available on campus and through a local rape crisis center or domestic violence center;
- Medical and health services available on campus and off campus;
- Campus escort services for security;
- Available academic and residence life accommodations;
- Student loan counseling for students considering temporary permanent withdrawal or half time enrollment regarding loan deferment, forbearance, or other student loan programs;
- The investigative and disciplinary process of the institution;
- The legal process carried out through local, state, and federal law enforcement agencies;
- That the institution's disciplinary process is not to be considered a substitute for the criminal justice process;
- Any limits on the ability of the confidential resource advisor to provide privacy or confidentiality to the student.

The University expects all members of its community to participate in the process of creating a safe, welcoming, and respectful environment on campus. In particular, the University expects that Rivier community members will take reasonable and prudent actions to prevent or stop an act of sexual misconduct or harassment. Taking action may include direct intervention when safe to do so, enlisting

the assistance of friends or colleagues, contacting law enforcement, or seeking assistance from a person in authority. Community members who choose to take these actions will be supported by the University and protected from retaliation.

Reports Involving Minors or Suspected Child Abuse

When a report involves suspected abuse of a minor under the age of 18, the University is required by state law to notify the New Hampshire Department for Children, Youth and Families and/or the District Attorney's office. This requirement extends to resources designated as confidential by the University, including staff and counselors at Rivier Student Health Services and Rivier Counseling and Wellness - Center, and ordained Chaplain(s).

3.2 Reporting Considerations

All community members are encouraged to report sexual harassment, sexual violence, stalking, and intimate partner violence as soon as possible in order to maximize the University's ability to respond promptly and effectively. The University does not, however, limit the time frame for reporting. If the Respondent is no longer a student or employee or is not a member of the Rivier community, the University may not be able to take disciplinary action against the Respondent but will still seek to meet its Title IX obligations by taking steps to end the harassment, prevent its recurrence, and address its effects.

An incident does not have to occur on campus to be reported to the University. All University community members are responsible for their actions and behavior, whether the conduct in question occurs on campus or in another location. Members of the University community have a responsibility to adhere to university policies and local, state, and federal law. As a result, this policy applies both to on-campus and off-campus conduct. In particular, off-campus conduct that is likely to have a substantial adverse effect on any member of the University community or Rivier University may be addressed under this policy.

The University reserves the right to investigate alleged prohibitive conduct under this Policy occurring on or off-campus when such conduct may adversely affect the University, possess a threat of harm to the University community; interferes with the University's pursuits of its educational objectives and mission, and/or if a student or employee is charged with a violation of state or federal law.

Amnesty for Alcohol or Other Drug Use

At Rivier University, the health, safety, and well-being of each person in our community is at the forefront of our daily work; and requires the investment of faculty, staff, students, and campus visitors. In crisis situations, the University recognizes there may be reluctance to seek help or report incidents due to fear of consequences. Since these situations may be life-threatening, Rivier asks that all members of our community and guests care for themselves and others by requesting assistance from campus officials, even in cases that violate the University conduct code. As such, the University honors an Amnesty Policy:

Reporting: Alcohol/other drugs

A bystander, Reporting Party, or Complainant acting in good faith, who discloses any incident relating to alcohol and/or drug use that results in the need for medical attention, will not be subject to the code of conduct for violations of alcohol and/or drug use or visitation policies occurring at or near the time of the reported incident.

Reporting: Sexual Misconduct

A bystander, Reporting Party, or Complainant acting in good faith, who discloses sexual harassment or misconduct will not be subject to disciplinary action by the University for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The University may, however, initiate an educational discussion or pursue other educational or therapeutic remedies regarding alcohol or other drugs for those individuals.

Students whose pattern of behavior indicates repeated violation of university alcohol and/or drug policies will jeopardize their immunity in Amnesty cases.

False Reports

The University takes the accuracy of information very seriously, as a charge of sexual harassment, sexual violence, stalking, or intimate partner violence may have severe consequences. Knowingly making a false report or complaint under this policy, or knowingly providing false or intentionally misleading information during an investigation, may result in disciplinary action up to and including dismissal from the University or termination of employment. A good faith complaint that results in a determination that the evidence is not sufficient to support a formal charge or to constitute a violation of this policy is not considered to be a false report.

When a Complainant or third-party witness is found to have provided false allegations or false information with malicious intent or in bad faith, that individual may be subject to disciplinary action. Similarly, a Respondent or witness who is later proven to have intentionally given false information during the course of an investigation may be subject to disciplinary action. It is a violation of the Code of Student Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.

Time Limits on Reporting

There is no time limitation on providing Notice/Complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible. Acting on Notice/Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the Title IX Coordinator's discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

3.3 Resources

Rivier encourages all community members to make a prompt report of any incident of sexual harassment, sexual violence, stalking, intimate partner violence, and other forms of sexual misconduct to local law enforcement and the University. For individuals who are not prepared to make a report, or who may be unsure what happened, but are still seeking information and support, there are several legally protected confidential resources on campus and in the local community, including counseling and support services.

The University recognizes that deciding whether to make a report, either to the University or law enforcement, and choosing how to proceed can be difficult decisions. The University encourages all individuals affected by sexual and relationship violence to seek the support of campus and community resources. These professionals can provide guidance in making decisions, information about available resources and procedural options, and assistance to either party in the event that a report and/or resolution under this policy is pursued. Individuals are encouraged to use all available resources on and off campus, regardless of when or where the incident occurred. A written notice of victim support and advocacy will be provided upon receipt of a report and will include information on campus and community support services.

Emergency Support and Response Services in the Event of Sexual Violence

Rivier encourages all community members to seek assistance from a medical provider and/or law enforcement as soon as possible after an incident of sexual or relationship violence. This is the best option to provide physical safety, emotional support, and medical care to a survivor. It is also the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. The University will escort any Rivier community member to a safe place, provide transportation to the hospital, assist in coordination with law enforcement, and provide information about the University's resources and reporting processes.

Assistance is available from Rivier Public Safety and local law enforcement 24 hours a day, year-round, by calling Rivier Public Safety and/or the Nashua Police Department. Any individual can request that a member of Rivier Public Safety or the Nashua Police Department respond and take a report. An officer from the Nashua Police Department can meet with a student or employee on campus wherever they are most comfortable. Rivier Public Safety will provide transportation upon request to a medical center or the police department.

Emergency Response Services: 911

Rivier Public Safety & Security: 603-888-1666

Nashua Police Department: 603-594-3500

Medical Resources in the Event of Sexual Violence

A medical provider can provide emergency and/or follow-up medical services. A medical examination is extremely important, especially with incidents involving sexual assault and rape. A board-certified sexual assault nurse examiner (SANE) is available should the individual choose to undergo a forensic examination. This medical examination has two goals: first, to diagnose and treat the full extent of any injury or physical effect (including prevention of sexually transmitted illnesses [STI] or possibility of pregnancy) and second, to properly collect and preserve evidence. The exam may include testing and

prophylactic treatment for HIV/AIDS, STIs, and pregnancy; a thorough physical examination, which includes the genital and/or anal area; and a blood draw. There is a limited window of time (typically 72-96 hours) following an incident of sexual assault to preserve physical and other forms of evidence. Taking the step to gather evidence immediately does not commit an individual to any particular course of action. The decision to seek timely medical attention and gather any evidence, however, will preserve the full range of options to seek resolution under this policy or through the pursuit of criminal prosecution.

On campus, Rivier Health Services can provide medical care to students during regular business hours; however, Health Services is not equipped for forensic examinations. An individual has the option — and is encouraged — to go to Southern New Hampshire Medical Center (SNHMC) for care and to have evidence collected. SNHMC provides forensic exams and, hence, is the preferred medical center for those seeking sexual assault forensic examinations. Rivier Public Safety will provide transportation upon request to SNHMC.

Rivier Student Health Services

Guild Hall

603-897-8295

Available to resident students for routine health matters and examinations

Southern New Hampshire Medical Center (SNHMC)

8 Prospect St

Nashua, NH 03060

603-577-2000

24-hour Emergency Department

Services offered include forensic sexual assault examination, emergency contraception, HIV/STD testing, pharmacy services, and treatment of injuries

St. Joseph's Hospital and Trauma Center

603-882-3000

Services offered include treatment of injuries and follow-up care

Students, faculty, and staff members may also access additional resources located in Nashua or Southern New Hampshire. These organizations can assist with crisis intervention services, counseling, medical attention, and assistance in working with the criminal justice system. Off-campus resources can assist individuals wishing to make a report to the University but will not notify the University without the Complainant's consent. All individuals are encouraged to use the resources that are best suited to their needs, whether on or off campus.

Confidential Support Resources

Individuals affected by sexual harassment, sexual violence, stalking, intimate partner violence, and other forms of sexual misconduct may want to consult with someone in a confidential manner without making a report to the University or initiating an investigation. The trained professionals listed in this section are designated as confidential and may not share information about a patient/client (including whether or not that individual has received services) without the individual's expressed consent unless

there is imminent danger to the patient/client or others or as otherwise required by law. They may, however, submit non-identifying information about the incident for the purposes of making a statistical report under the Clery Act, as described in Section IV.

On Campus Confidential Support

Rivier University Counseling & Wellness Center

603-897-8251

- or -

Confidential Resource Advisor Emily Daversa

603-897-8577

Off Campus Confidential Support

Bridges Domestic and Sexual Violence Support

603-883-3044

Off Campus Confidential Support For Employees

[Employee Assistance Program](#)

222-209-7840

Other Private Resources and Reporting Options:

NH Victims' Compensation Program

800-300-4500

603-271-1284

NH Governor's Commission on Domestic Violence and Sexual Assault

603-271-3658

National Sexual Assault Telephone Hotline

800-656-4673

A trained advocate from Bridges Domestic and Sexual Violence Support is also available to accompany individuals to access off-campus resources, such as the hospital.

3.4 Privacy and Confidentiality

Rivier University is committed to protecting the privacy of all individuals involved in a report of sexual misconduct, including sexual harassment, sexual violence, stalking, or intimate partner violence. All University employees who are involved in the University's Title IX response, including investigators and decisionmakers, shall receive specific instruction about respecting and safeguarding private information.

Throughout the process, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the report. Such a review is essential to protecting the safety of the Complainant, the Respondent, and the broader campus community and to maintaining an environment free from sex discrimination and gender-based harassment. Privacy and confidentiality have distinct meanings under this policy.

Privacy

Privacy generally means that information related to a report of misconduct will only be shared with a limited group of individuals. The use of this information is limited to those University employees who “need to know” in order to assist in the active review, investigation, resolution of the report, or to protect the University community. While not bound by confidentiality, these individuals will be discreet, and respect and safeguard the privacy of all individuals involved in the process. Conversations with individuals designated as private resources constitutes a report to the University and will initiate an inquiry into the incident.

Confidentiality

Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the express permission of the individual. These campus and community professionals include mental health providers, ordained clergy, sexual assault advocates and rape crisis counselors. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others or as otherwise required by law.

3.5 Timely Warning

If a report of misconduct discloses a serious, immediate, or continuing threat to the Rivier community, the University may issue a campus-wide timely warning or notification (which may take the form of an email, text or other electronic communication to community members) to protect the health or safety of the community and to heighten safety awareness. A timely warning may include a campus-wide notification for a report of sexual assault, stalking, and intimate partner violence. The timely warning will not include any identifying information about the Complainant. The University reserves the right to send campus-wide notifications on any report of sexual misconduct.

At no time will the University release the name of the Complainant to the general public without the express consent of the Complainant. The release of the Respondent’s name to the general public is guided by Family Educational Rights and Privacy Act (FERPA) and the Jeanne Clery Act. The University may share non-identifying information about reports received in aggregate form, including data about outcomes and sanctions.

All University proceedings are conducted in compliance with the requirements of FERPA, 2013 Reauthorization of the Violence Against Women Act, the Clery Act, Title IX, state and federal law, and University policy. No information shall be released from such proceedings except as required or permitted by law and University policy.

3.6 Initial Evaluation

The Title IX Coordinator conducts an initial evaluation, typically within seven business days of receiving Notice/Complaint/Knowledge of alleged misconduct. The initial evaluation typically includes:

- Assessing whether the reported conduct may reasonably constitute a violation of the Policy.
 - If the conduct may not reasonably constitute a violation of the Policy, the matter is typically dismissed from this process, consistent with the [dismissal provision](#) in these procedures. It may then be referred to another process, if applicable.
- Determining whether Rivier has jurisdiction over the reported conduct, as defined in the Policy.
 - If the conduct is not within Rivier’s jurisdiction, the matter is typically dismissed from this process, consistent with the dismissal provision in these procedures. If applicable, the conduct will be referred to the appropriate Rivier office for resolution.
- Offering and coordinating supportive measures for the Complainant.
- Offering and coordinating supportive measures for the Respondent, as applicable.
- Notifying the Complainant, or the person who reported the allegation(s), of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below.
- Determining whether the Complainant wishes to initiate a Complaint.
- Notifying the Respondent of the available resolution options, including a supportive and remedial response, an Informal Resolution option, or the Resolution Process described below, if a Complaint is made.

3.7 Supportive Measures

Rivier University will offer and coordinate supportive measures as appropriate for any individual who experiences or is affected by sex-based discrimination or harassment, whether as a Complainant, Respondent, or a third party to restore or preserve that person’s access to Rivier University’s education program or activity or to provide support during the Title IX grievance procedures or the informal resolution process. For complaints of sex-based harassment, these supportive measures may include:

- Imposing a No Contact Order between parties;
- Rescheduling of exams and assignments (in conjunction with appropriate faculty);
- Providing alternative course completion options (with the agreement of the appropriate faculty);
- Changing a class schedule, including the ability to take deferral, drop a course without penalty or transfer sections (with the agreement of the appropriate faculty);
- Changing a work schedule or job assignment;
- Changing an on-campus housing assignment;
- Providing assistance from University support staff in completing housing relocation;
- Limiting an individual or organization’s access to certain University facilities or activities pending resolution of the matter;
- Providing a voluntary leave of absence;
- Providing an escort to ensure safe movement between classes and activities;
- Providing medical services;

- Providing academic support services, such as tutoring;
- Assisting with transportation needs.

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

The Parties are provided with a timely opportunity to seek modification or reversal of a decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the Title IX regulatory definition of supportive measures. Rivier University will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances materially change.

3.8 Informal Resolution

In lieu of filing or resolving a complaint through Rivier University's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. Informal resolution, even if voluntary, may not be used in cases involving sexual violence or assault. In addition, Rivier University does not offer informal resolution to resolve a complaint that includes allegations that an employee engaged in sex-based harassment of an elementary school or secondary school student, or when such a process would conflict with Federal, State, or local law.

Before the initiation of an informal resolution process, Rivier University will explain in writing to the parties:

- The allegations;
- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties.

What information Rivier University will maintain and whether and how Rivier University could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

At no time prior to the resolution of the matter shall either party question or confront the other or engage a third party to do so outside the presence of the Title IX Coordinator or their designee. The matter will be deemed resolved when all parties expressly agree to an outcome that is acceptable to them and to the University. A party may withdraw from the Informal Resolution Process and initiate the investigation procedures at any time.

Informal resolution is a remedies-based, non-judicial approach designed to eliminate a hostile environment without taking formal disciplinary action against a Respondent.

Where the Title IX Review concludes that informal resolution may be appropriate, the University will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Complainant's access to the educational activities at the University and to eliminate a hostile environment. Examples of protective remedies are detailed in the Supportive Measures section above. Other potential remedies include targeted or broad-based educational programming or training, direct confrontation of the Respondent and/or indirect action by the Title IX Coordinator or the University. Depending on the form of informal resolution used, it may be possible to maintain the Complainant's anonymity.

The University will not compel a Complainant to engage in mediation or a restorative justice process, to directly confront the Respondent, or to participate in any particular form of informal resolution. The decision to pursue informal resolution will be made when the University has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation in informal resolution is voluntary, and a Complainant can request to end informal resolution at any time.

The Title IX Coordinator will maintain records of all reports and conduct referred for informal resolution. Informal resolution will typically be completed within 30 business days of the initial report.

3.9 Advisors

In cases involving a student Complainant or a student Respondent, both the Complainant and Respondent may be assisted during the Title IX process by an advisor of their choosing. An advisor serves to guide the student through all phases of the process and may accompany the student to any meeting throughout the process. Any advisor selected is advised to be familiar with University policies and procedures related to Title IX and gender-based violence.

The advisor should assure that the party clearly understands all questions asked, and that the party clearly communicates their account of events. The advisor may also help the party identify appropriate witnesses or evidence. Any person who serves as an advisor should plan to make themselves available for meetings throughout the process. Scheduling of interviews and meetings will not be significantly delayed due to the lack of availability of the advisor.

The advisor's role during an investigatory interview or subsequent meetings with the investigator(s) is as a silent observer. The advisor may not interact with the investigator during the course of an investigation. The advisor may request a recess during an investigatory interview or meeting to consult with the student, but not while any question is pending before the student.

The advisor may accompany a student to any meeting with an investigator, with the Title IX Coordinator or her/his designee, or with the Hearing Board. The advisor must ask questions, or speak for a Complainant, Respondent, or third party during a live hearing before the Board.

Any advisor who becomes disruptive in any meeting may be removed from that meeting and/or prohibited from participation in the remainder of the process.

Agreements Not Recognized by the University

Other than a judicial order, the University will not recognize agreements between the Complainant and Respondent in which the University did not participate unless reviewed and approved by the Title IX Coordinator.

IV. Grievance Procedures for Complaints of Sex Discrimination or Harassment

Rivier University has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its educational program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by this Policy.

4.1 Formal Complaints

Sex-based harassment and discrimination violates federal and state civil rights laws and may be subject to criminal prosecution in addition to action taken by the University. Because behavior that violates this policy may also be a violation of law, any individual who has been subjected to sexual assault or harassment may consider criminal or civil legal options in addition to or separate from this Policy. An individual may also file a complaint with the U.S. Department of Education's Office for Civil Rights, the Equal Employment Opportunity Commission and/or the New Hampshire Human Rights Commission

Under this Policy, the following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that Rivier University investigate and make a determination about alleged discrimination under Title IX:

- A "Complainant," which includes:
 - a student or employee of Rivier University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - a person other than a student or employee of Rivier University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in Rivier University's education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant;
- Rivier University Title IX Coordinator.

Rivier University may consolidate complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one Complainant or more than one Respondent is involved, references below to a party, Complainant, or Respondent include the plural, as applicable.

4.2 Withdrawal of Complaint

Prior to the completion of the resolution options described in this policy, the Complainant may withdraw the sexual misconduct complaint. Withdrawal of the complaint will, in most circumstances, end any investigation or process taking place under this policy. The University reserves the right to move forward with a complaint, even after the Complainant withdraws it, in order to protect the interests and safety of the University community.

4.3 Effect of Pending Complaint on Respondent

If a Respondent elects to withdraw from the University after an investigation has commenced but prior to a final resolution, the transcript of the Respondent will reflect a withdrawal and shall contain the notation "Voluntary withdrawal with disciplinary charges pending." A Respondent electing to withdraw from the University under these conditions shall have no right to apply for readmission. In exceptional circumstances, the Dean of Students may grant permission to apply for readmission to a withdrawing or withdrawn student. If such special permission is granted, readmission will not be automatic and may be subject to such terms and conditions as the Dean of Students may deem to be appropriate.

4.4 Basic Requirements of Title IX Grievance Procedures

Rivier University will treat Complainants and Respondents equitably.

Rivier University requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

Rivier University presumes that the Respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

All communications and notices required by these procedures may be made electronically, in hard copy, or in person.

Rivier University has established the following timeframes for the major stages of the grievance procedures:

Notice of Allegations Review & Comment Period	10 business days
Investigation & Report	20 business days
Review of Draft Investigatory Report, Access to Evidence & Comment Period	10 business days
Completion of Final Investigatory Report	5 business days
Notice of Hearing and/or Questioning and Credibility Assessment	6 business days
Determination	6 business days
Appeal	3 business days

The University seeks to resolve all reports within 60 days of the initial report. All time frames expressed in this policy are meant to be guidelines rather than rigid requirements. Extenuating circumstances

may arise that require the extension of time frames, including extension beyond 60 days. Extenuating circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances.

In general, the Complainant and the Respondent can expect that the process will proceed according to the time frames provided in this policy. In the event that the investigation and resolution time frame needs to be extended for good cause, the University will provide written notice to all parties of the reason(s) for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Rivier University has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay:

4.5 Notice of Allegations

Upon initiation of Rivier University's Title IX grievance procedures, Rivier University will notify the parties of the following:

- Rivier University's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. If Rivier University provides a description of the evidence: The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

If, in the course of an investigation, Rivier University decides to investigate additional allegations of sex discrimination or harassment by the Respondent toward the Complainant that are not included in the notice provided or that are included in a complaint that is consolidated, Rivier will notify the parties of the additional allegations.

4.6 Dismissal of Complaint or Report

Rivier University may dismiss a complaint of sex discrimination or harassment if:

- Rivier University is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in Rivier University's education program or activity and is not employed by Rivier University;
- The Complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and Rivier University determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or

- Rivier University determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, Rivier University will make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, Rivier University will promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then Rivier University will also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the Complainant, or simultaneously if notification is in writing.

Rivier University will notify the Complainant that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then Rivier University will also notify the Respondent that the dismissal may be appealed. Dismissals may be appealed on the following basis:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; or
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

If the dismissal is appealed, Rivier University will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent; Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome;
- Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, Rivier University will, at a minimum:

- Offer supportive measures to the Complainant as appropriate;
- If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate;
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within Rivier University's education program or activity.

4.7 Safety and Remedial Measures, Including Emergency Removal

When an individualized safety and risk analysis has determined that a report poses a substantial and immediate threat of harm to the safety or well-being of an individual or members of the campus community, or to the performance of University functions, the University may place a student on interim suspension or impose a leave for an employee. Pending resolution of the report, the individual may be denied access to campus, campus facilities and/or all other University activities or privileges for which the individual might otherwise be eligible, as the University determines appropriate based upon the outcome of the investigation. When interim suspension or a leave is imposed, the University will make reasonable efforts to complete the investigation and resolution within an expedited time frame. Students may be placed on interim suspension at the discretion of the Dean of Students or designee as described in the Student Handbook. Provisions for suspension of faculty members are contained in the Faculty Handbook. Staff may be placed on leave at the discretion of the University.

4.8 Acceptance of Responsibility

At any point in the process, the Respondent may choose to accept responsibility for all or part of the alleged misconduct. If the Respondent accepts responsibility for the alleged misconduct, the process may, but will not necessarily, proceed to the investigation phase. The Title IX Coordinator may proceed directly to the sanction phase to determine an appropriate sanction for the Respondent. If the Respondent disputes any aspect of the allegations, the matter will proceed to an investigation.

4.9 Investigation

Rivier University will provide for adequate, reliable, and impartial investigation of complaints. The burden is on Rivier University—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

Rivier University will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

Rivier University will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance. Rivier University will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- Rivier University will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. Rivier University will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
- Rivier University will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and Rivier University will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

Rivier University will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

Rivier University will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by Rivier University to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Rivier University obtains that party's or witness's voluntary, written consent for use in its grievance procedures;
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Rivier University will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:

- Rivier University will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence.
- Rivier University will provide a reasonable opportunity to review and respond to the evidence or the investigative report. If Rivier University conducts a live hearing as part of its grievance procedures, it will provide this opportunity to review the evidence in advance of the live hearing. [Rivier University may decide whether to provide this opportunity to respond prior to the live hearing, during the live hearing, or both prior to and during the live hearing];
- Rivier University will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

The investigator will coordinate the gathering of information from the Complainant, Respondent, and other individuals, or entities with relevant information regarding the report using any of the following processes.

- The investigator will share with the Complainant and Respondent for comment or rebuttal information and documentation considered material to the findings related to the report;
- The Complainant and Respondent will have an equal opportunity to be heard, to submit evidence, and to identify witnesses who may have relevant information;
- The investigation phase will typically be completed within 20 business days. Given the availability of witnesses or complexity of the circumstances, this time frame may be extended as necessary to ensure the integrity and completeness of the investigation;
- The investigator will provide periodic updates to the Title IX Coordinator, particularly regarding any emerging needs that would require additional protective or supportive measures for the Complainant or Respondent or regarding any adjustments to estimated timelines.

Information gathered during the investigation will be used to evaluate the appropriate course of action, provide for the safety of the individuals and the campus community, and impose remedies as necessary to address the effects of the conduct cited in the report, in addition to being used in a hearing to determine a finding.

The Title IX Coordinator will designate an investigator of their choosing, who has specific training and experience investigating allegations of sexual harassment and sexual misconduct, to conduct a thorough, impartial, and fair investigation. The University will designate a trained investigator who may be an employee of the University, or an external investigator engaged to assist the University in its fact gathering and determination of a finding. Any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest.

The investigation is designed to provide a fair and reliable gathering of the facts. All individuals in the investigation, including the Complainant, the Respondent, and any third-party witnesses, will be treated with appropriate sensitivity and respect. Consistent with the need for a full assessment of the facts, the investigation will safeguard the privacy of the individuals involved.

4.10 Pre-Hearing Procedures

All parties will provide the Title IX Coordinator (or designee) with a list of witnesses they wish the University to call, and copies of documents and a description of any other information they propose to present at the hearing five days prior to the hearing or a date set by the Title IX Coordinator. It is assumed that the Investigator's Report includes and matches any witness list provided by all parties.

The Title IX Coordinator will provide each party with a copy of the list of witnesses, and identification or copies of documents or other information submitted by each party, at minimum, 24 hours prior to the hearing. In the absence of good cause, as determined by the Title IX Coordinator, in his or her sole discretion, the parties may not introduce witnesses, documents, or other information at the hearing that were not provided in the Investigation and/or Title IX Coordinator by this deadline. If, at any time prior to the hearing, after reviewing the Investigator's report and the Complainant's list of witnesses and other evidence, the responding party elects to acknowledge his or her actions and take

responsibility for the alleged sexual misconduct, he or she may request that the University propose a resolution to the charges and a sanction and, with the consent of the Complainant, resolve the complaint without a hearing. If the responding party chooses this option and takes responsibility for the alleged sexual misconduct, he or she waives the option for a hearing and must accept any consequences and sanctions determined by the University.

Document/Records Review

In addition to reviewing any documents submitted by the Complainant and Respondent, the investigator will try to obtain such other physical or medical evidence relevant to the investigation as the investigator determines, in his or her judgment, to be necessary, including but not limited to documents, police records, electronic or other record of communications between the parties or witnesses, video or audio recordings, records or other relevant information. In obtaining such evidence, the investigator will comply with applicable laws and University policies.

Site Visits

The investigator may visit relevant sites or locations and record observations through written or photographic documentation.

Complainant and Respondent Interviews

The investigator will interview the Complainant and the Respondent separately and may interview one or both parties more than once as necessary. The Complainant and Respondent may be accompanied by their advisors during the interview(s). To ensure accuracy of information shared during the interview process, a neutral University employee who has received annual training in Title IX investigations and processes, may accompany the investigator during the interview process.

Witness Interviews

The investigator will make a good faith effort to contact and interview any witnesses identified by the parties or in the documentation, including those no longer at the University. The investigator may also interview any other individual he or she finds to be potentially relevant to the allegations of the report. The investigator will inform each witness or other individual interviewed that they are prohibited from retaliating against the Complainant and Respondent or other witnesses.

Experts

The investigator may contact any expert the investigator determines is necessary to ascertain the facts related to the report. An expert witness may be contacted for an informal consultation or for a professional opinion regarding information learned from the investigation.

Prior Sexual History, Bad Acts, or Pattern Evidence

In general, in a case where the Respondent raises consent as a defense, any prior consensual relationship between the parties may be deemed relevant to assess the manner and nature of communications between the parties but is not necessarily determinative. As noted in the Prohibited Sex Based Harassment and Discrimination Policy, a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Generally, prior sexual history of the Complainant or Respondent will not be considered relevant to an investigation. However, in limited circumstances, such as pattern evidence, it may be relevant in the determination of responsibility or, in the case of

Respondent, the determination of a sanction. Additionally, a prior finding (post appeal rights) of responsibility for a similar act of sexual misconduct will always be deemed relevant and may be considered in making a determination as to responsibility and/or assigning of a sanction.

If either party wishes to bring forth information concerning the other party's sexual history, bad acts, or pattern evidence, such requests must be made during the course of the investigation to the investigator, who is responsible for determining its relevance.

4.11 Investigative Report

At the conclusion of the investigation, the investigator will prepare a written report summarizing and analyzing the relevant facts determined through the investigation, referencing any supporting documentation or statements. In preparing the report, the investigator will review all facts gathered to determine whether the information is relevant and material to the determination of responsibility given the nature of the allegation. In general, the investigator may redact information that is irrelevant, more prejudicial than probative, or immaterial. The investigator may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts. Further, the investigator may redact any statements regarding general reputation or any character trait. The investigative report may include summaries of interviews with the Complainant, Respondent, third-party witnesses, experts, and any other individuals with relevant information, photographs of relevant sites or physical evidence, electronic records, and forensic evidence. The investigator may provide a summary of impressions including context for the evidence.

Before the report is finalized, the Complainant and Respondent will be given the opportunity to review their own statement(s) and other relevant information collected during the investigation, including the summaries of statements of the other party and any witnesses. A Complainant or Respondent may submit any additional written comment or evidence to the investigator within 10 business days of notice of the opportunity to review the relevant portions of the investigative file. Upon receipt of any additional information or evidence by the Complainant or Respondent, or after the 10 day comment period has lapsed without comment, the investigator will finalize the report and submit it to the decisionmaker.

4.12 Questioning the Parties and Witnesses

Rivier University will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination or harassment.

Administrative Resolution for Sex-discrimination Complaints

Rivier University does not discriminate on the basis of race, color, national origin, religion, age, veteran or marital status, sex, gender identity, sexual orientation or disability in admission or access to, treatment in or employment in its programs and activities (except in the limited condition of a bona fide job qualification - BFJQ) and Title IX requires that the University not discriminate on the bases stated above. The following persons have been designated to handle inquiries regarding Title IX and the nondiscrimination policies:

Colleen Mills, Director of Human Resources, Title IX Coordinator (for employees)

Molloy Hall

603-897-8211

cmills@rivier.edu

titleixcoordinator@rivier.edu

Paula Randazza, Assistant Vice President of Student Experience, Title IX Deputy (for students)

Dion Center

603-897-8244

prandazza@rivier.edu

titleixcoordinator@rivier.edu

Inquiries concerning the application of nondiscrimination policies may also be referred to:

Regional Director, Boston Office

Office for Civil Rights

US Department of Education

8th Floor, 5 Post Office Square

Boston, MA 02109

617-289-0111

Fax: 617-289-0150

TDD: 877-521-2172

OCR.Boston@ed.gov

Hearing Resolution for Sex-based Harassment Complaints

If the Investigator's finding warrants a hearing, the Title IX Coordinator will provide written notice to both parties and their advisors, (the "Notice of Hearing") stating: (1) the date, time, and place of the hearing. The Notice of Hearing will be delivered, at the Title IX Coordinator's discretion, by email or in person, and will be considered effective immediately upon delivery. The hearing will take place no later than eight business days, if reasonable, following delivery of the Notice of Hearing. All parties are expected to cooperate in the scheduling of the hearing. If either party fails to appear at the scheduled hearing, the Hearing Board may postpone the proceedings or proceed with the hearing and determine the complaint on the basis of the evidence available, provided the absent party was duly notified of the scheduled hearing date, as outlined above.

Rivier University will conduct the live hearing with the parties physically present in the same geographic location or, at Rivier University's discretion or upon the request of either party, will conduct the live hearing with the parties physically present in separate locations with technology enabling the decisionmaker and parties to simultaneously see and hear the party or witness while that person is speaking. Rivier University will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review upon written request.

Rivier University's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will allow the decisionmaker to ask such questions, and either:

- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the decisionmaker, subject to the procedures for evaluating and limiting questions discussed below; or
- If Rivier University permits advisor-conducted questioning and a party does not have an advisor to ask questions on their behalf, Rivier University will provide the party with an advisor of Rivier University's choice, without charge to the party, for the purpose of advisor-conducted questioning. In those instances, Rivier University will not appoint a confidential employee.

Procedures for the decisionmaker to evaluate the questions and limitations on questions

The decisionmaker will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The decisionmaker will give a party an opportunity to clarify or revise a question that the decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

Refusal to respond to questions and inferences based on refusal to respond to questions

The decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

4.13 Determination Whether Sex Discrimination or Harassment Occurred

At any point in the proceedings, if a Respondent elects to admit to the charged violations and waive further process, the Decision-maker is authorized to accept that admission, adopt it as their finding/final determination, and administer sanctions. This would waive the Respondent's right to appeal. If the Respondent rejects the finding/final determination/sanctions, or does not admit to all conduct charged, the Resolution Process continues to its conclusion. The Complainant retains their right to appeal a determination when a Respondent admits responsibility.

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, Rivier University will:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination or harassment occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred;

- Notify the parties simultaneously in writing of the determination whether sex discrimination or harassment occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the Complainant and Respondent to appeal,
- Not impose discipline on a Respondent unless there is a determination at the conclusion of the grievance procedures that the Respondent engaged in prohibited conduct;
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
 - Coordinate the provision and implementation of remedies to a Complainant and other people Rivier University identifies as having had equal access to Rivier University's education program or activity limited or denied by sex discrimination;
 - Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
 - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Rivier University's education program or activity.
- Comply with the grievance procedures before the imposition of any disciplinary sanctions against a Respondent;
- Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred;
- Comply with the Title IX grievance procedures before the imposition of any disciplinary sanctions against a Respondent;
- Not discipline a party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

The determination regarding responsibility becomes final either on the date that Rivier University provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

4.14 Disciplinary Sanctions or Remedies

Following a determination that sex-based harassment occurred, Rivier University may impose disciplinary sanctions, which may include:

1. Loss or Restriction of Privileges
 - a. Loss of the privilege of participating in any public function (e.g., performances, organizations, student government, or athletic) wherein the participant will be thought of as a representative of Rivier University;
 - b. Loss of on campus housing and/or dining privileges;
 - c. Loss of the privilege of participating in social and/or ceremonial events on campus;
 - d. Loss of the privilege of maintaining a motor vehicle on campus;
 - e. A requirement that a student resign membership in, or any offices, elected or appointed, held in, campus organizations;
 - f. Loss of access to certain campus locations; and
 - g. Loss of use of certain campus resources.
2. Required Action
 - a. Required counseling or educational sessions;
 - b. Required community service or restitution hours; or
 - c. Required restorative action.
3. Disciplinary Probation
 - a. Probation for a specified or indefinite period of time, with or without conditions relating to the termination of probation.
4. Suspension
 - a. Suspension for a specified or indefinite period of time, with or without conditions relating to readmission to the University.
5. Dismissal or Expulsion
6. Withholding of Degree

Safety and remedial measures will be implemented at the discretion of the University. Potential remedies, which may be applied to the Complainant and/or the Respondent, include:

Range of Safety and Remedial Measures

- Providing access to counseling services and assistance in setting up an initial appointment, both on and off campus;
- Imposing a No Contact Order between parties;
- Rescheduling of exams and assignments (in conjunction with appropriate faculty);
- Providing alternative course completion options (with the agreement of the appropriate faculty);
- Changing a class schedule, including the ability to take deferral, drop a course without penalty or transfer sections (with the agreement of the appropriate faculty);
- Changing a work schedule or job assignment;
- Changing an on-campus housing assignment;
- Providing assistance from University support staff in completing housing relocation;

- Limiting an individual or organization’s access to certain University facilities or activities pending resolution of the matter;
- Providing a voluntary leave of absence;
- Providing an escort to ensure safe movement between classes and activities;
- Providing medical services;
- Providing academic support services, such as tutoring;
- Assisting with transportation needs;
- Imposing interim suspension or leave;
- Any other remedy that can be tailored to the involved individuals (students or employees) to achieve the goals of this policy.

Interim Suspension or Leave

Where the report of sexual harassment, sexual violence, stalking, or intimate partner violence poses a substantial and immediate threat of harm to the safety or well-being of an individual or members of the campus community, or to the performance of normal University functions, the University may place a student or student organization on interim suspension or impose a leave for an employee. Pending resolution of the report, the individual or organization may be denied access to campus, campus facilities and/or all other University activities or privileges for which the individual or organization might otherwise be eligible, as the University determines appropriate based upon the outcome of the investigation. When interim suspension or a leave is imposed, the University will make reasonable efforts to complete the investigation and resolution within an expedited time frame.

Students may be placed on interim suspension at the discretion of the Vice President for Student Experience or their designee as described in the Code of Student Conduct. Provisions for suspension of faculty members are contained in the Faculty Handbook. Staff may be placed on leave at the discretion of the University.

4.15 Appeal of Determinations

Rivier University offers the following process for appeals from a determination whether sex discrimination occurred.

Dissatisfaction with the findings is not grounds for appeal. Rivier University will offer an appeal from a dismissal or determination whether sex-based harassment occurred on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made;
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

Either the Complainant or Respondent may file an appeal of the decision maker’s findings and determination within three business days of receipt of the Hearing Board report using the procedures outlined below. Appeals must be filed with the Vice President for Student Experience (hereafter “Vice President”), who serves as the appeals officer. If the Vice President has served in a Title IX officer

capacity with the case in question, an appeal officer designee will be appointed. If no appeal of the decisionmaker's determination is filed within a timely fashion, the determination shall be considered final and binding on all of the parties and may not be appealed after the sanctioning phase of the procedure.

The appeal shall consist of a concise and complete written statement outlining the facts that support the available grounds for the appeal.

If the appeal is properly filed, the other party will be given the opportunity to review the written appeal and respond to it in writing to the Vice President. Any response by the other party must be submitted to the Vice President within three calendar days from being provided the appeal. If both parties file an appeal, the appeal documents from each party will be considered together in one appeal review process.

The receipt of the appeal and any response to the appeal will be acknowledged in writing (which can include email).

If a party appeals a dismissal or determination whether sex-based harassment occurred, Rivier University will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Communicate to the parties in writing that Rivier University will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome;
- Notify the parties in writing of the result of the appeal and the rationale for the result. Any additional procedures or bases for appeal Rivier University offers will be equally available to all parties.

The appeal of the Decisionmaker findings will be conducted in an impartial manner by the Vice President. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination is presumed to have been decided reasonably and appropriately. The appeal is not a de novo review of the underlying matter. The decision shall affirm the original findings of the investigator unless the Vice President sustains one of the grounds for appeal, in which case the Vice President will refer the case to the original or new investigator for reconsideration as appropriate.

Appeals are not intended to be full rehearing of the complaint (de novo). This is not an opportunity for the Vice President to substitute their judgment for that of the original investigator merely because they disagree with the findings. Appeals decisions are to be deferential to the original investigator except where one of the stated grounds above has been established.'

Appeal Decision and Notification

The Vice President will generally make all appeal decisions within three business days of receipt of both the appeal and all responses to it, if any.

The appeal decision will include a rationale and shall be presented simultaneously in writing to both the Complainant and Respondent by the Title IX Coordinator or a member of the Title IX Team. The decision of the Vice President upon an appeal of the findings of the investigator shall be final.

4.16 Records

The investigative report, including all documents, information, and other evidence, and the documentation regarding any finding, sanction, and appeal will serve as the formal record of the proceedings and will be maintained by the Title IX Coordinator as part of the Responding Party's conduct record.

If a student has been found responsible for a violation of this policy, such records may be used in reviewing any further conduct issues consistent with this policy and the Code of Student Conduct.