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# Equity & Compliance

## Title IX Policy & Grievance Procedures



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## I. Policy Against Title IX Prohibited Conduct

Rhode Island School of Design (“RISD”) prohibits all forms of discrimination on the basis of sex in the education programs and activities that it operates and is required by Title IX of the Education Amendments of 1972 (“Title IX”) and its implementing regulations not to discriminate in such a manner. This prohibition on the basis of sex applies to Title IX sexual harassment, including dating violence, domestic violence, sexual assault, and stalking (collectively “Title IX prohibited conduct”) as those terms are defined herein.

## II. Applicability and Scope

This Policy is designed to address RISD’s responsibilities under Title IX of the Education Amendments of 1972 relating to Title IX prohibited conduct and only applies to allegations of sexual harassment that meet the Title IX regulatory definition of sexual harassment and that have occurred within RISD’s education programs or activities in the United States. For purposes of this Policy, an education program or activity includes locations, events, or circumstances over which RISD exercises substantial control over both the Respondent and the context in which the Title IX sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by RISD.

## III. Title IX Prohibited Conduct

Title IX Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following three categories: (1) Quid Pro Quo Sexual Harassment; (2) Hostile Environment Sexual Harassment; and/or (3) Sex-Based Crimes.

1. **Quid Pro Quo Sexual Harassment** occurs when an employee of RISD conditions the provision of an aid, benefit, or service of RISD on an individual’s participation in unwelcome sexual conduct.
2. **Hostile Environment Sexual Harassment** occurs when unwelcome conduct is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to RISD’s education program or activity.
3. **Sex-Based Crimes** occur when conduct constitutes “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10),



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“domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

- a. Sexual Assault includes the sex offenses of Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape.
  - i. Rape is the carnal knowledge of a person, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - ii. Sodomy is oral or anal sexual intercourse with another person, without the consent of that person, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - iii. Sexual Assault with an Object is the use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - iv. Fondling is the touching of the private body parts of another person for the purpose of sexual gratification without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
  - v. Incest is nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - vi. Statutory Rape is nonforcible sexual intercourse with a person who is under the statutory age of consent.
- b. Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on consideration of the following factors:
  - i. The length of the relationship;
  - ii. The type of relationship;
  - iii. The frequency of interaction between the persons involved in the relationship.
- c. Domestic Violence is felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the



domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- d. Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
  - i. fear for his or her safety or the safety of others; or
  - ii. suffer substantial emotional distress.
- 4. **Title IX Retaliation:** Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, constitutes retaliation.

The following specific circumstances do not constitute retaliation: The exercise of rights protected under the First Amendment; Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this part, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Complaints alleging retaliation may be filed according to the Policy described herein.

#### IV. Related Definitions

**Actual knowledge** constitutes notice of Title IX prohibited conduct or allegations of Title IX prohibited conduct to RISD's Title IX Coordinator or any official of RISD who has authority to institute corrective measures on behalf of RISD. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of RISD with actual knowledge is the Respondent. The mere ability or obligation to report Title IX prohibited conduct or to inform an individual about how to report Title IX prohibited conduct, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of RISD.

**Coercion** means the use of an unreasonable amount of pressure to initiate or continue sexual activity against an individual's will. Coercion is more than an effort to gain consent, persuade, entice, or attract another person to engage in sexual activity. If coercion, intimidation, threats, and/or physical force is used, there is no consent.



**Complainant** means an individual who is alleged to be the victim of conduct that could constitute Title IX prohibited conduct.

**Consent** is defined by RISD as conscious, informed, freely and voluntarily given, mutually understandable words or actions which indicate a willingness to participate in a specific mutually agreed upon sexual activity.

**Formal Complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Title IX prohibited conduct against a Respondent and requesting that RISD investigate the allegation of Title IX prohibited conduct. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of RISD. For purposes of this policy, employment by RISD constitutes participation in the education program or activity. A formal complaint may be filed with Equity & Compliance in person, through mail, email, telephone, or electronic report submission.

**Incapacitation** means a state beyond drunkenness or intoxication, and a person is not incapacitated merely because they have been drinking or using drugs. Incapacitation is not determined by technical or medical definitions. The question is whether a person has the physical and/or mental ability to make informed, rational judgments and decisions. Where alcohol or other substances are involved, incapacitation is determined by how the substance impacts that person's decision-making capacity, awareness of consequences, and ability to make informed judgments. Because the impact of alcohol and other drugs varies from person to person, one should be cautious before engaging in sexual contact or intercourse when either person has been drinking alcohol or using other drugs. The use of alcohol or other drugs may create ambiguity about consent. If there is any doubt about either party's level of intoxication, the safe thing to do is to forgo all sexual activity. Although each individual is different, there are some common and observable signs that someone is incapacitated or approaching incapacitation, including but not limited to slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand or answer coherently some or all of the following questions: Do you know where you are? Do you know how you got here? Do you know what is happening? Do you know who you are with?

**Preponderance of the Evidence** is the standard for making a determination of responsibility. This standard is met if the greater weight of the evidence demonstrates that it is 'more likely than not' that a violation has occurred.

**Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute Title IX prohibited conduct.

## V. Confidentiality



RISD will keep private the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of Title IX prohibited conduct, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, as may be required by the Family Educational Rights and Privacy Act (“FERPA”) or other applicable laws. In this context, privacy and confidentiality have distinct meanings.

Privacy means that information related to a complaint will be shared with only a limited number of RISD employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are responsible for RISD’s response to Title IX prohibited conduct receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with FERPA, and the privacy of employee records will be protected in accordance with Rhode Island law and RISD policy.

Confidentiality exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. Consultation with Confidential Resources does not constitute notice to RISD.

## **VI. Reporting Incidents of Title IX Prohibited Conduct**

Any person may report Title IX prohibited conduct to the Title IX Coordinator, regardless of whether the person reporting is the person alleged to be a Complainant. Such a report may be made at any time (including during non-business hours) in person, through mail, email, telephone, or electronic report submission, through the following means:

### **Equity & Compliance**

20 Washington Place (Prov Wash), 3rd Floor

[equitycompliance@risd.edu](mailto:equitycompliance@risd.edu)

24/7: 401 454-6666

[Title IX Online Reporting Form](#)

Simone Tubman, Executive Director

Interim Title IX Coordinator

[stubman@risd.edu](mailto:stubman@risd.edu)



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Alyssa Roush, Assistant Director  
[aroush@risd.edu](mailto:aroush@risd.edu)

**RISD Public Safety**

South Hall  
30 Waterman Street, Providence  
Office hours: 8 am – 4 pm  
24/7: 401 454-6666

**Deputy Title IX Coordinator for Employees**

Alison Douglas  
Human Resources Partner  
20 Washington Place  
Human Resources Office, 3rd floor  
[adouglas@risd.edu](mailto:adouglas@risd.edu)  
401 454-6720

There is no specific time frame for individuals who have experienced Title IX prohibited conduct to make an initial report pursuant to this process. Individuals are, however, encouraged to make a report soon after the incident in question in order to maximize RISD's ability to investigate and reach a finding because RISD's ability to respond fully may be limited with the passage of time.

A Complainant may request that RISD not investigate and/or adjudicate the report under the formal complaint procedures described herein. RISD will make all reasonable efforts to honor the Complainant's request. However, in certain circumstances, RISD may have to pursue a formal complaint. These circumstances include, but are not limited to, instances when RISD has received multiple reports of misconduct by the same individual or when the conduct reported poses a compelling risk to the health and safety of the RISD community.

Upon receiving a report of sexual harassment, if the Title IX Coordinator is made aware of the identity of a Complainant, the Title IX Coordinator or designee will make all reasonable efforts to promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint. For purposes of this policy, RISD will be deemed to have Actual Notice of allegations only when notice of said allegations are made to the Title IX Coordinator or to a RISD official who has authority to institute corrective measures on behalf of RISD.



Upon receiving a report of sexual harassment, if the Respondent is unknown or is not subject to the policies of RISD, the Title IX Coordinator or designee will make all reasonable efforts to provide the Complainant with supportive measures, as well as information and options regarding potential criminal processes. The Title IX Coordinator or designee may also take appropriate actions to protect the Complainant, such as providing assistance in obtaining no-trespass and restraining orders. If requested, RISD will assist in filing/applying for orders of protection, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

### **Title IX Coordinator Contact Information**

Simone Tubman, Executive Director, Equity & Compliance  
Interim Title IX Coordinator  
[stubman@risd.edu](mailto:stubman@risd.edu)

Alison Douglas  
Human Resources Partner  
Deputy Title IX Coordinator for Employees  
20 Washington Place  
Human Resources Office, 3rd floor  
[adouglas@risd.edu](mailto:adouglas@risd.edu)  
401 454-6720

Option of Confidential Reporting: Individuals have the option to speak confidentially to:

RISD Counseling and Psychological Services (CAPS) (Available for Students)  
72 Pine Street, 2<sup>nd</sup> Floor Providence, RI 02903  
Available 24/7: 401 454-6637

RISD Health Services (Available for Employees & Students)  
72 Pine Street, 2<sup>nd</sup> Floor  
Providence, RI 02903  
401 454-6625

Employee Assistance Program (EAP; available for Employees)  
Coastline EAP  
Available 24/7: 1-800-445-1195  
[coastlineep.com](http://coastlineep.com)

Option of Reporting to Law Enforcement: Individuals who have experienced criminal violations are encouraged to report the incident to local law enforcement and have the option to do so. Formal reporting options include contacting the police department in the



jurisdiction in which the incident occurred. If a Complainant chooses to report to law enforcement or pursue a criminal process, the Complainant may simultaneously pursue a formal complaint under this Policy. Individuals are advised that if there is concurrent law enforcement activity, RISD may temporarily delay its investigative or adjudicative process. RISD can provide Complainants with information and support in the process of reporting criminal conduct to law enforcement. Regarding the involvement of law enforcement, the Complainant has several options, including: (1) to notify law enforcement authorities; (2) to be assisted by campus authorities in notifying law enforcement authorities if the Complainant chooses; or (3) to decline to notify such authorities. RISD will comply with the Complainant's request for assistance in notifying law enforcement to the extent it is consistent with law. The Complainant's choice to report to law enforcement will not impact the provision of supportive measures.

## **VII. Interim Measures**

Emergency removal from campus: Nothing in this part precludes RISD from removing a Respondent from RISD's education program or activity on an emergency basis, provided that RISD undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX prohibited conduct justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision following the removal. Upon notification, the respondent will have three (3) days to appeal this decision in writing to the Title IX Coordinator. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Supportive Measures: When a report of Title IX prohibited conduct is received, the Title IX Coordinator or designee will offer supportive measures. Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to RISD's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter Title IX prohibited conduct.

Supportive measures may include but are not limited to: imposing a temporary no-contact order, which typically will instruct the parties to refrain from having contact with one another, directly or through intermediaries, whether in person or via electronic means, pending the investigation and determination. RISD may also take any further supportive action, when appropriate, pending the resolution of the matter, including but not limited to: referral to on/off-campus partners; changing a party's academic, working and/or living



situation, if appropriate and reasonably available; facilitating conversations regarding extensions with professors, facilitating campus escort services, coordinating leaves of absence, increasing Public Safety presence in certain areas, and providing restrictive access to certain areas.

RISD will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality does not impair the ability of RISD to provide the supportive measures.

The Title IX Coordinator or designee is responsible for coordinating the effective implementation of supportive measures.

RISD treats Complainants and Respondents equitably by offering supportive measures as defined above, and by following the grievance process explained herein before the imposition of any disciplinary sanctions or other actions that are not supportive measures. Both the Complainant and Respondent involved in either an informal or a formal resolution process have a right to receive supportive measures from RISD.

## **VIII. Requirements for Title IX Personnel**

Training: The Title IX Coordinator(s), Investigator(s), Decision-Maker(s) and Facilitator(s) of Informal Resolution Processes receive training on: prohibited behaviors as defined in this Policy, including Title IX Sexual Harassment; the scope of RISD’s education program or activity as it relates to Title IX complaints, how to conduct the informal resolution process and formal complaint grievance processes under this Policy, including investigations, live hearings, appeals, and informal resolution processes as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

The Decision-Maker(s) will receive additional training on: any technology to be used at a live hearing; issues of relevance of questions and evidence, including when questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant.

The Investigator(s) will receive additional training on: issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Any materials used to train will not rely on sex or other stereotypes and will promote impartial investigations and adjudications of formal complaints. All Title IX training materials will be posted on RISD’s website as a part of its recordkeeping in accordance with law. (See “Recordkeeping” section below.)



In addition to the aforementioned trainings, RISD also offers primary prevention and awareness programs, as well as educational programs and campaigns for students and employees to promote the awareness of discrimination and harassment, including dating violence, domestic violence, sexual assault, and stalking.

As required by the Clery Act, the grievance process will be implemented by officials who, at a minimum, receive annual training on relevant issues related to sexual assault, dating and domestic violence, and stalking, and on how to conduct the grievance process.

Conflicts of Interest, Bias, and Impartiality: The Title IX Coordinator(s), Investigator(s), Decision-Maker(s), and Facilitator(s) of Informal Resolution Processes will make all reasonable efforts to ensure the formal complaint grievance process is facilitated in an impartial manner. The Title IX Coordinator(s), Investigator(s), Decision-Maker(s), and Facilitator(s) of informal resolution processes may not have a conflict of interest for or against Complainants or Respondents generally or an individual Complainant or Respondent.

The parties are expected to promptly report concern(s) regarding conflict of interest or bias regarding the above listed personnel to the Title IX Coordinator or designee as soon as reasonably possible once they become aware of the conflict of interest or bias. Upon receiving a report of conflict of interest or bias, RISD will evaluate the report, and if it is determined that a conflict of interest or bias exists, RISD will appoint another individual to serve in the role.

## **IX. Filing a Formal Complaint**

A Complainant may file a formal complaint alleging Title IX prohibited conduct against a Respondent and requesting that RISD investigate the allegation of Title IX prohibited conduct. A Complainant also has the option to elect to proceed with an informal resolution process, rather than an investigation, if both parties have voluntarily agreed to do so and have met the requirements described in the “Informal Resolution Process” section below.

A formal complaint is a document signed by a Complainant, or signed by the Title IX Coordinator, against a Respondent. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or otherwise a party. The formal complaint may be filed with the Title IX Coordinator by using the contact information listed above for the Title IX Coordinator. For purposes of this definition, “document signed by a Complainant” means a document or electronic submission that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint.

## **X. Consolidation of Formal Complaints**



RISD may consolidate formal complaints under this policy when allegations arise out of the same facts or circumstances. In addition, a formal complaint of Title IX retaliation described herein may be consolidated with a formal complaint of Title IX sexual harassment under Title IX. Where the formal grievance process involves more than one Complainant or more than one Respondent, references made to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable.

## **XI. Initial Assessment of a Formal Complaint**

Upon receipt of a formal complaint, the Title IX Coordinator will evaluate whether the alleged conduct, if proven, would constitute a Title IX violation because it meets or could meet the definition of Title IX sexual harassment and occurred or could have occurred within the jurisdiction and scope required by Title IX as described herein. If the Title IX Coordinator determines that the conduct alleged in the formal complaint, if proven, would meet the aforementioned requirements, then the complaint will be investigated and adjudicated in accordance with the procedures outlined in this policy. If the Title IX Coordinator determines that the conduct alleged in the formal complaint, if proven, would not meet the aforementioned requirements, then the complaint will follow the dismissal process described below and RISD may, if appropriate, refer the matter to another RISD office.

## **XII. Dismissal of a Formal Complaint**

RISD reserves the right to dismiss a formal complaint or any allegations therein, if the conduct alleged in the formal complaint: A) would not constitute Title IX prohibited conduct as defined in this Policy, even if proved; B) did not occur in RISD’s education program or activity; or C) did not occur against a person in the United States. If any of those circumstances exist, RISD shall dismiss the formal complaint with regard to that conduct for purposes of Title IX prohibited conduct under this Policy. Such a dismissal shall not preclude action under other provisions of RISD’s policies and procedures.

In addition to the reasons for dismissal described in the paragraph above, RISD may dismiss a formal complaint or any allegations therein, if at any time during the investigation or hearing: A) a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; B) the Respondent is no longer enrolled or employed by RISD; or C) specific circumstances prevent RISD from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal required or permitted pursuant to this section, the Title IX Coordinator will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties. Both parties will be given the opportunity to appeal the dismissal (see



Appeals section below).

### **XIII. Informal Resolution**

Once a formal complaint has been filed, at any time prior to RISD reaching a determination regarding responsibility, the parties may request that RISD facilitate an informal resolution process. Informal resolution does not involve a full investigation and adjudication like the formal grievance process. Rather, the informal resolution process uses mediation or other forms of dispute resolution with the goal that the parties will arrive at a mutually agreed-upon outcome. The informal resolution process cannot be used for cases involving allegations that an employee sexually harassed a student.

In order to engage in an informal resolution process, the Complainant must first file a formal complaint with the Title IX Coordinator, the process must be deemed appropriate for informal resolution by the Title IX Coordinator, and the Complainant and Respondent must voluntarily consent in writing to participate in the process.

To complete the informal resolution process, both parties must voluntarily agree to the outcome with the understanding that the outcome is final and will not be subject to further procedures under this policy, unless there is material evidence to show that a party engaged in misrepresentation or fraudulent conduct which impacted the resolution.

Both parties reserve the right to terminate the informal resolution process and may move forward with the formal grievance process any time prior to resolution. Such termination must be provided to the Title IX Coordinator in writing.

If the parties choose informal resolution, RISD shall provide the parties a written notice, prior to initiating an informal resolution process that includes:

1. The allegations alleged by the Complainant;
2. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
3. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

If the parties elect to engage in an informal resolution, the time frames set forth herein will be suspended during the pendency of that process.

### **XIV. Formal Complaint Grievance Process Overview**



Once a formal complaint (as explained above) is filed, and the Title IX Coordinator has conducted the initial assessment and determined that the alleged conduct may proceed under this Title IX Policy, the formal grievance process will commence (unless the parties have voluntarily chosen to and have met the requirements to proceed with an informal resolution process as described herein). The grievance process will include written notice of allegations, investigation with interviews of all parties and relevant witnesses, a live hearing that includes all parties and relevant witnesses (if applicable) led by a Decision-Maker(s), a written determination of responsibility, and the option for appeal.

RISD will make all reasonable efforts to provide a prompt, equitable, fair and impartial resolution of complaints (as defined under Title IX and in the Clery Act), including providing a grievance process that treats Complainants and Respondents equitably by providing remedies to a Complainant where a determination of responsibility has been made against the Respondent, and by following its grievance process before imposition of any disciplinary sanctions or other actions that are not supportive measures. Remedies will be designed to restore or preserve equal access to RISD's education program or activity. Such remedies may include the same individualized services offered as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

Written Notice of Allegations: Upon receiving a formal complaint and completing the initial assessment, the Title IX Coordinator will provide written notice to all known parties within 5 calendar days that includes:

- a. RISD's grievance process, including any informal resolution process;
- b. The allegations alleged by the Complainant, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. "Sufficient details" include the identities of the parties involved, if known; the conduct allegedly constituting the sexual harassment, if known; and the date and location of the alleged incident(s), if known.
- c. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- d. Information regarding the parties' right to have an advisor of their choice, who may be, but is not required to be an attorney.
- e. A statement that the parties may inspect and review evidence as described in the "Investigation" section of this policy; and



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- f. A statement that RISD prohibits knowingly making false statements or knowingly submitting false information in bad faith at any point in the grievance process. Individuals who engage in this misconduct may be subject to disciplinary actions. Disciplinary action pursued against a party for knowingly making false statements or submitting false information in bad faith does not constitute retaliation prohibited under this policy, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement or provided materially false information in bad faith.

If in the course of an investigation, RISD decides to investigate allegations about the Complainant or Respondent that are not included in the written notice of allegations described above, the Title IX Coordinator will provide written notice of the additional allegations to the parties whose identities are known.

## **XV. Investigation of Formal Complaints of Title IX Prohibited Conduct**

Overview of the Investigative Process: Once a formal complaint is filed, and the Title IX Coordinator or designee has conducted the initial assessment and determined that the alleged conduct may proceed under this Title IX policy, the Title IX Coordinator will appoint an Investigator to conduct a formal investigation into the allegations.

The Investigator will contact the parties whose participation is invited or expected for an investigative interview and will provide written notice of the date, time, location, participants, and purpose of the meeting. Parties will be given reasonably sufficient time to prepare to participate.

The Investigator will make all reasonable efforts to complete the investigative report effectively and efficiently. This time frame may vary depending on the size of the formal complaint, the amount of evidence to be considered, the number of persons to be interviewed, and additional factors.

The parties and their advisors are not authorized to disseminate any portion of the investigative report sent to them through electronic or hardcopy means. Unauthorized video or audio recordings of investigative interviews are not permitted by the parties or their advisors.

Equal Opportunity Given to the Parties: All parties have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Both the Complainant and Respondent have the right to meet separately with the Investigator.



Both the Complainant and Respondent are permitted to provide names of potential witnesses to the Investigator. The Investigator will determine which of those potential witnesses, or other persons, may have relevant information about the alleged conduct; and the Investigator may request statements, either orally or in writing.

Both the Complainant and the Respondent are permitted to provide other relevant evidence to the Investigator. For instance, evidence may include any facts or information presented in support of or opposition to an allegation, including text messages, email exchanges, timelines, receipts, photographs, etc. The Investigator may also consider additional documents, items, or other relevant information.

All parties will be given an equal opportunity to inspect and review any evidence obtained as a part of the investigation that is directly related to the allegations raised in the formal complaint. This includes evidence that RISD does not intend to rely on in reaching a determination regarding responsibility; and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

Review of Evidence: All parties must submit to the Investigator any evidence that they would like the Investigator to consider prior to the completion of the investigative report. Prior to the completion of the investigative report, RISD will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic or hardcopy format. (Note: All evidence that was subject to the parties' inspection and review will be made available at the live hearing to give each party equal opportunity to refer to such evidence during the live hearing, including for purposes of questioning).

Each party will be given 10 calendar days to submit a written response, which the Investigator will consider prior to completion of the investigative report.

Completion of the Investigative Report: Either after the Investigator receives the parties' written responses or after time limit has expired, the Investigator will create an investigative report that fairly summarizes the relevant evidence.

At least 10 calendar days prior to the live hearing, the Investigator will send a copy of the investigative report in an electronic or hardcopy format to each party; their advisors, if applicable; and the Title IX Coordinator. The parties will be given the opportunity to review the investigative report and provide a written response.

## **XVI. Formal Grievance Process Live Hearing**

Role of the Decision-Maker(s): Shortly after receiving the final investigative report, the Title IX Coordinator will appoint one or more Decision-Maker(s) to conduct the live hearing.



Written Response to the Final Investigative Report: Prior to scheduling the live hearing, a Decision-Maker will contact each party to provide a deadline for which they can submit their written responses to the final investigative report.

Live Hearing Schedule: Promptly after receiving the parties' written responses, the Title IX Coordinator or designee will provide the parties, their advisors, and witnesses with written notice of the live hearing date, time, and location. In this notice, the parties will be asked to inform the Title IX Coordinator or designee right away if there is a scheduling conflict that would make it impossible to attend the live hearing.

Live Hearing Location and Attendance: RISD's Title IX grievance process provides for a live hearing. At the request of either party, RISD will provide for the live hearing to occur with the parties located in separate rooms. Live hearings may be conducted with all parties physically present in the same geographic location; or, at the Title IX Coordinator's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. In either of the aforementioned situations, RISD will provide technology that enables the participants to simultaneously see and hear each other.

The only persons permitted to attend the live hearing are the parties, their advisors, the witnesses, and designated RISD personnel. The witnesses are only to be in attendance at the live hearing during the time in which they are offering information or answering questions. Otherwise, the witnesses are to be waiting in a designated room (or virtual room) until called upon.

Recording of Live Hearing: RISD will create an audio or audiovisual recording, or transcript of any live hearing. The choice of whether it is an audio or audiovisual recording, or transcript is made in the sole discretion of RISD. The audio or audiovisual recording, or transcript will be made available to both parties for inspection and review. In compliance with disability laws, RISD will ensure that all parties are properly accommodated with respect to use of technology and reliance on visual, audio, or written communication.

Standard of Evidence: Preponderance of evidence is the standard of evidence to be used to determine whether a Respondent is responsible for the prohibited conduct alleged in the formal complaint (see related definitions above). This is the standard of evidence that will be applied to all formal complaints of prohibited conduct described in this Policy.

Advisors: The Complainant and the Respondent are entitled to the same opportunity to be accompanied to any related meeting or proceeding, including the live hearing, by the advisor of their choice, who may be, but is not required to be, an attorney; and RISD may not limit the choice or presence of an advisor for either the Complainant or Respondent in



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any meeting or grievance proceeding, including the live hearing. Notwithstanding, the advisor must comply with the restrictions established by RISD regarding the extent to which the advisor may participate in the proceedings.

- a. *Meetings and Investigation Interviews:* Advisors may not speak for or on behalf of any Complainant or Respondent during any meetings and/or investigation interviews. While an advisor cannot speak for or on behalf of the Complainant or Respondent during any meetings and/or investigation interviews, time will be granted for the advisor and the party to confer, if deemed appropriate, by the Investigator or RISD personnel facilitating any meeting. The Investigator and RISD personnel reserve the right to exclude an advisor from any meeting or investigation interview for failure to abide by these restrictions.
- b. *Live Hearings:* Each party must have an advisor present at the Title IX live hearing. If a Complainant or Respondent does not have an advisor present at the live hearing, RISD will provide one. RISD reserves sole discretion to select the advisor provided. The advisor selected will be provided without cost to the Complainant or Respondent. The role of the advisor during the live hearing is solely to conduct questioning on the Complainant's or Respondent's behalf. At the live hearing, the Decision-Maker will permit each party's advisor to ask the other party and any witnesses relevant questions and follow-up questions, including those challenging credibility. It is the expectation of RISD that the advisor will at all times act in a respectful and non-aggressive manner. The Decision-Maker reserves the right to exclude an advisor from the live hearing for failure to abide by these restrictions. Should an advisor be excluded from the live hearing, the party will be able to choose a new advisor, or one will be provided by RISD.

Advisors are required to follow all procedures described in this policy. In a situation where an advisor engages in a material violation of this policy or does not abide by reasonable instruction from the Title IX Coordinator(s), Investigator(s), Decision-Maker(s), or other RISD personnel, RISD reserves the right to either limit or preclude the advisor from participation in the formal complaint grievance process. In the circumstance that an advisor is precluded from future participation, the party may select a new advisor of their choice or RISD will provide an advisor for them.

Questioning During Title IX Live Hearings: At the Title IX live hearing, the Decision-Maker(s) will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

Before a party or witness answers a question, the Decision-Maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not



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relevant. The Decision-Maker(s) has complete discretion to make relevancy determinations.

Questions will be asked directly, orally, and in real-time from the advisors of the parties, not from the parties themselves. Advisors are permitted to ask the other party and witnesses relevant questions and follow-up questions, including questions that challenge credibility. The advisor may only ask relevant questions to each party and witness. Repetitive questions asked at the Title IX live hearing may be deemed irrelevant. The Decision-Maker(s) is prohibited from drawing an inference regarding the determination of responsibility based solely on a party's or witness' absence from the live hearing or refusal to answer questions.

Privileged Information: RISD will not require, allow, rely upon, or otherwise permit questions or use of evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege. Notwithstanding the foregoing, if a person holding such a privilege has waived the privilege, then the information may be used during an investigation or live hearing.

In gathering evidence, RISD will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless RISD obtains that party's voluntary, written consent to do so.

Evidence Pertaining to Sexual History: Questions about or evidence of a Complainant's sexual predisposition is never considered relevant for the purposes of an investigative report or questioning in a live hearing. Questions about or evidence of a Complainant's sexual history are only considered relevant for the purposes of an investigative report or questioning in a live hearing if: (1) Such questions and evidence about the Complainant's prior sexual history are offered to prove that someone other than the Respondent committed the conduct alleged by the complainant; or (2) Such questions and evidence concern specific incidents of the Complainant's prior sexual history with respect to the Respondent and are offered to prove consent.

Questions or evidence about a Complainant's sexual history that do not meet the two exceptions described above are excluded from investigative reports and live hearings and are to be deemed irrelevant.

Request for Additional Materials or Sanction Statements: At the conclusion of the Hearing, the Decision-Maker(s) may ask the Parties to submit additional materials or Sanctions statements.



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## **XVII. Written Determination Regarding Responsibility**

Within 10 calendar days of either the conclusion of the live hearing or, if requested, receipt of additional materials or sanction statements, the Decision-Maker(s) will issue a written determination regarding responsibility. Before doing so, the Decision-Maker(s) will undertake an objective evaluation of all relevant evidence (including both inculpatory and exculpatory evidence). In addition, the Decision-Maker(s) will not make any credibility determinations based on a person's status as a Complainant, Respondent, or witness. Upon a determination of responsibility using the preponderance of evidence standard described herein, the Decision-Maker(s) will make their best effort to simultaneously issue a written determination regarding responsibility to both parties.

The written determination shall include:

1. Identification of the allegations potentially constituting Title IX prohibited conduct;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the relevant policies to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the Respondent, and whether remedies designed to restore or preserve equal access to RISD's education program or activity will be provided by RISD to the Complainant; and
6. RISD's procedures and permissible bases for the Complainant and Respondent to appeal.

The determination regarding responsibility becomes final either on the date that RISD provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

## **XVIII. Remedies and Disciplinary Sanctions**

If the Decision-Maker(s) makes a determination that the Respondent is responsible for



Title IX prohibited conduct, the Decision-Maker(s), in consultation with such other members of the administrative staff, as deemed necessary, shall determine appropriate disciplinary action or sanctions to be taken against the Respondent. Disciplinary action or sanctions may include, but are not limited to, training, sanctions listed under RISD's Student Conduct Policy, warning, reprimand, withholding of a promotion or pay increase, reassignment, suspension from school or from employment without pay, dismissal from RISD, or termination of employment, as RISD believes appropriate under the circumstances.

Remedies will be designed to restore or preserve the Complainant's equal access to RISD's education program or activity. The Title IX Coordinator or designee is responsible for effective implementation of any remedies.

### **XIX. Remedies and Disciplinary Sanctions**

If the Decision-Maker(s) makes a determination that the Respondent is responsible for Title IX prohibited conduct, the Decision-Maker(s), in consultation with such other members of the administrative staff as deemed necessary, shall determine appropriate disciplinary action or sanctions to be taken against the Respondent. Disciplinary action or sanctions may include, but are not limited to: community service, reflection paper, behavioral expectation conversations/check-in's, educational training; as well as, anything from ranging from warning through suspension, expulsion, or termination.

1. RISD may implement remedial measures following the conclusion of the grievance process. Remedies will be designed to restore or preserve the Complainant's equal access to RISD's education program or activity. The Title IX Coordinator or designee is responsible for effective implementation of any remedies. These remedial measures may include but are not limited to: referral to on/off-campus partners; modifying a party's academic, working and/or living situation; modifying a party's campus-housing/work assignment; modifying to a party's work schedule; facilitating conversations regarding extensions, facilitating campus escort services, imposing a "no-contact" directive, which typically will instruct the parties to refrain from having contact with one another, directly or through intermediaries, whether in person or via electronic means; and restricting access to campus-buildings. Broader remedial action may also be taken for the campus community, such as: limited contact orders, increased supervision or monitoring, directed or increased education and prevention efforts, and/or a review of policies and procedures.

### **XX. Parties' Right to Appeal**

Within 10 calendar days from the date that RISD provided the parties with the written determination, either or both parties may file a written appeal from a determination regarding responsibility, and from RISD's dismissal of a formal complaint or any



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allegations therein. Upon receipt of an appeal, the Title IX Coordinator will designate an Appeal Officer.

Appeals may be made on the following bases:

- a. Procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
- c. The Title IX Coordinator, Investigator(s), or Decision-Maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

In all appeals, RISD shall:

- a. Ensure that the Appeal Officer for the appeal is not the same person as the Decision-Makers(s) who reached the determination regarding responsibility or dismissal, the Investigator(s), or the Title IX Coordinator;
- b. Ensure that the Appeal Officer complies with the standards set forth in this policy;

Promptly after receiving the written appeal, the Appeal Officer will review the appeal to determine whether it falls within one of the three bases for appeal as described above. If it does, RISD will promptly notify the other party when a valid appeal is filed and will implement appeal procedures equally for both parties. If it does not, the appealing party will be notified in writing.

The other party will be given 10 calendar days from the date of notification of the appeal to submit a written response to the appeal to the Appeal Officer. Either after receiving the other party's written response to the appeal, or after the time for the other party to submit a written response has expired, the Appeal Officer will make a determination regarding the outcome of the appeal within 10 calendar days. The Appeal Officer's decision shall be final.

Upon a determination of the outcome of the appeal, the Appeal Officer will provide written notice of the decision to both parties and will make all reasonable efforts to simultaneously notify said parties. This written notice will describe the rationale for the result of the appeal.

## **XXI. Potential Delays in the Informal Resolution Process or Formal Grievance Process**



RISD will make all reasonable efforts to abide by the timelines described throughout this policy. If the timeline for any stage of the informal resolution process or the formal complaint grievance process must be changed, the Complainant and Respondent will receive written notice of the temporary delay or limited extension of time frames and the reasons for the change. Possible reasons for temporary delays or extensions of time frames include, but are not limited to, the absence of a party or a party's advisor, concurrent law enforcement activity, the need for language assistance or accommodation of disabilities, etc.

## **XXII. Request for Extensions of Timelines from the Parties**

If a party has good cause and needs an extension during the formal complaint grievance process, they can contact the Title IX Coordinator or designee to request such extension. It is within the Title IX Coordinator's discretion to grant such a request. In the case that an extension is granted, the same extension will be given to the other party.

## **XXIII. Recordkeeping**

RISD shall maintain for a period of seven years records of:

- a) Each Title IX prohibited conduct investigation, including any determination regarding responsibility and any audio or audiovisual recording, or transcript; any disciplinary sanctions imposed on the Respondent; and any remedies provided to the Complainant designed to restore or preserve equal access to the recipient's education program or activity;
- b) Any appeal and the result therefrom;
- c) Any informal resolution and the result therefrom; and
- d) All materials used to train Title IX Coordinators, Investigators, Decision-Makers, and any person who facilitates an informal resolution process. RISD shall make these training materials publicly available on its website.

For each response, RISD shall create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of Title IX prohibited conduct. In each instance, RISD shall document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to RISD's education program or activity. If RISD does not provide a Complainant with supportive measures, then RISD shall document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or



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measures does not limit RISD in the future from providing additional explanations or detailing additional measures taken.