Roseman University’s Student Sexual Misconduct Policy
[The reference to ‘student’ includes residents and interns.]

SEXUAL MISCONDUCT

Roseman University is committed to ensuring the safety of all members of the university community. Sexual misconduct violates University standards and it will not be tolerated. Roseman University prohibits all forms of sexual misconduct, to include domestic violence, dating violence, sexual assault, stalking and sexual harassment. The University’s sexual misconduct policy outlines a process for those individuals who believe they have been subjected to sexual misconduct.

The University shall maintain a working and educational environment that is safe from all forms of discrimination, including sexual harassment. The University is fully committed to equal opportunity employment decisions and educational programs and activities, in compliance with all applicable Federal and State laws and including appropriate affirmative action efforts for all individuals without regards to race, color, national origin, religion, sex, disability, age, Vietnam Era Veteran’s status, or sexual orientation, including heterosexuality, homosexuality, bisexuality, gender identity and gender expression. Violating this policy shall not be tolerated. Roseman University prohibits any form of sexual harassment of its students or its employees in the University workplace by any person.

This policy applies to all Roseman University students and employees, regardless of gender or sexual orientation. An individual is considered to be a student enrolled in the University from the time he/she attends the first day of orientation or the first day of class, including breaks, as outlined by an academic program’s academic calendar, until graduation, official withdrawal, leave of absence, suspension, or termination.

Any student or employee that violates this policy shall be subject to disciplinary action, which may include, but is not limited to, warning, probation, suspension or termination. The University will not take disciplinary action against anyone who believes he/she has filed a valid complaint, regardless of the outcome of the investigation.

A student has the right to report sexual misconduct to civil and/or criminal authorities. The University will take appropriate action regardless of other possible or actual civil or criminal proceedings associated with the alleged misconduct. The University’s process for handling allegations of sexual misconduct may be carried out prior to, simultaneously, or following civil or criminal proceedings.

Title IX

Roseman University Notice of Nondiscrimination

The University is committed to complying with Title IX requirements. Title IX of the Education Amendments of 1972 to the Civil Rights Act of 1963 states:

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.

Roseman University does not discriminate on the basis of sex in its education programs and activities, and it is required by Title IX not to discriminate in such a manner. Questions regarding Title IX may be referred to the school’s Title IX coordinator or to the Office of Civil Rights.

Roseman University’s Title IX Coordinator is:
Dr. Michael DeYoung  
Vice President for Student Services  
Office # 161  
11 Sunset Way, Henderson, NV 89014  
(702) 968-2006  
mdeyoung@roseman.edu

Student at the South Jordan, Utah Campus may contact the Department of Education Office for Civil Rights:

Denver Office  
Office for Civil Rights  
U.S. Department of Education  
Cesar E. Chavez Memorial Building  
1244 Speer Boulevard, Suite 310  
Denver, CO 80204-3582  
Telephone: 303-844-5695  
FAX: 303-844-4303; TDD: 800-877-8339  
Email: OCR.Denver@ed.gov

Students at the Henderson, Nevada Campus or Summerlin, Nevada may contact the Department of Education Office for Civil Rights:

Seattle Office  
Office for Civil Rights  
U.S. Department of Education  
915 Second Avenue Room 3310  
Seattle, WA 98174-1099  
Telephone: 206-607-1600  
FAX: 206-607-1601; TDD: 800-877-8339  
Email: OCR.Seattle@ed.gov

Confidentiality

Roseman University considers full-time faculty members and administrators as well as campus security personnel to be a “responsible employee” - a responsible employee is an individual who is required to report incidents of sexual misconduct to the Title IX coordinator regardless of whether the student reporting the violation requests confidentiality. A “responsible employee” must report to the Title IX coordinator all relevant details about alleged sexual violence that a student or another person has shared and that the school will need to determine what occurred and to resolve the situation. This includes the names of the alleged perpetrator (if known), the student who experienced the alleged sexual violence, other students involved in the alleged sexual violence, as well as relevant facts, including the date, time and location of the sexual violence.

Before a student reveals information that he or she may wish to keep confidential to a “responsible employee”, the student should understand that (i) this individual has an obligation to report the names of the alleged perpetrator and student in the alleged sexual violence, as well as the relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX coordinator or other appropriate University officials, (ii), that the student has the option to request that the school maintain his or her confidentiality, which the University’s Title IX coordinator will consider, and (iii) the student has the ability to share information confidentially with counseling, advocacy, health, mental health, or sexual-assault-related services (e.g., sexual assault resource centers, health centers, pastoral counselors, and mental health centers).
If a student requests confidentiality, the Title IX coordinator or other appropriate school designee responsible for evaluating requests for confidentiality should make every effort to respect this request and to evaluate the request in the context of school’s responsibility to provide a safe and nondiscriminatory environment for all students. However, the University may determine that its requirement to provide a safe and nondiscriminatory environment for its students supersedes a student’s confidentiality request.

For Title IX purposes, when a student requests that her or his name not be revealed to the alleged perpetrator or asks that the University not investigate or seek action against the alleged perpetrator, the student should understand that honoring this request may limit the University’s ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator. However, the student making these request(s), should understand that Title IX includes protections against retaliation, and that University officials will not only take steps to prevent retaliation, but also take strong responsive action if it occurs. This includes retaliatory actions taken by the University and University officials. Students should know that Title IX requires the University to protect the complainant and ensure her or his safety as necessary.

To the extent possible, the University will strive to only disclose information regarding alleged incidents of sexual violence to individuals who are responsible for handling the school’s response. Regardless of whether a student complainant requests confidentiality, the University will take steps to protect the complainant as necessary, including taking interim measures before the final outcome of an investigation.

Public awareness events such as candlelight vigils, events where survivors of sexual misconduct speak out or other forums in which students disclose incidents of sexual violence, are not considered notice to the University of sexual violence for purposes of triggering the University’s obligation to initiate an investigation.

Definitions

Consent
Every individual has the right to say “no” at any time and to have that choice respected. A voluntary affirmative verbal response is a way to ensure that an individual has given consent to sexual activity. An individual does not have to physically resist for an activity to be considered sexual assault. Any resistance, either physical or verbal, eliminates consent. Silence is not considered consent to any kind of sexual activity. An individual who is incapacitated is unable to consent to sexual activity. Roseman University defines an individual to be incapacitated when a person lacks the mental capacity to answer any one of the following questions regarding her/his sexual activity (who, when, where and how): 1) Who is having sex with me? (Do I know the name the person I am having sex with? Do I know if I am having sexual activity with more than one person?) 2) What is the date and time that I am having sex? 3) Where am I having sex? 4) Is someone having sex with me in a way I do not like or that I am not aware of? An individual who doesn’t know the answer to even one of the questions listed could be incapacitated and therefore unable to give consent. Additional indicators of incapacitation include slurred speech, an inability to stand or walk without assistance, vomiting, and being in and out of consciousness. When it is reasonably known that an individual is incapacitated, the person is determined to be unable to give consent under any circumstances. A person who is unconscious can’t legally consent to sexual activity. Prior sexual contact does not mean consent, even when individuals have been in a relationship. An individual who initially consents to sexual conduct has the right to withdraw this consent during the course of sexual activity.

Dating Violence
Dating violence is when someone purposefully hurts or scares someone they are dating. Dating violence includes but is not limited to physical, emotional, and/or sexual abuse, including the threat of such abuse. The state of Utah defines dating violence as (a) any criminal offense involving violence or physical harm, or threat of violence or physical harm, when committed by a person against a dating partner of the person; or (b) any attempt, conspiracy, or solicitation by a person to commit a criminal offense involving violence.
or physical harm against a dating partner of the person. The existence of such a relationship will be determined based on the complainant’s statement and consideration of the length, type and the frequency of interaction between the people in the relationship.

**Domestic Violence**
Nevada state law defines domestic violence as occurring when a person commits one of the following acts against or upon the person’s spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person is or was actually residing, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person’s minor child or any other person who has been appointed the custodian or legal guardian for the person’s minor child: (a) a battery. (b) An assault. (c) Compelling the other person by force or threat of force to perform an act from which the other person has the right to refrain or to refrain from an act which the other person has the right to perform (d) A sexual assault.(e) A knowing, purposeful or reckless course of conduct intended to harass the other person. Such conduct may include, but is not limited to: stalking, arson, trespassing, larceny, destruction of private property, carrying a concealed weapon without a permit, injuring or killing an animal. (f) A false imprisonment. (g) Unlawful entry of the other person’s residence, or forcible entry against the other person’s will if there is a reasonably foreseeable risk of harm to the other person from the entry.

Utah state law defines domestic violence as any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another.
"Domestic violence" also means commission or attempt to commit, any of the following offenses by one cohabitant against another: a) aggravated assault, b) assault, c) criminal homicide, d) harassment, e) electronic communication harassment. f) kidnapping, child kidnapping, or aggravated kidnapping, g) mayhem, h) sexual offenses, i) stalking, j) unlawful detention or unlawful detention of a minor, k) violation of a protective order or ex parte protective order, l) any offense against property, m) possession of a deadly weapon with intent to assault, n) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building or vehicle, o) disorderly conduct, if a conviction of disorderly conduct is the result of a plea agreement in which the defendant was originally charged with any domestic violence offense otherwise described in this Subsection. Conviction of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(o), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Section 921, and is exempt from the provisions of the federal Firearms Act, 18 U.S.C. Section 921 et seq.; p) child abuse

**Sexual Assault**
The United States Department of Justice defines sexual assault as any type of sexual contact or behavior that occurs without the explicit consent of the recipient. Nevada state law defines sexual assault as occurring when a person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or herself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct, is guilty of sexual assault. Utah state law defines rape as when the actor has sexual intercourse with another person without the victim’s consent. This applies whether or not the actor is married to the victim. Utah law states that a person commits forcible sexual abuse if the victim is 14 years of age or older and, under circumstances not amounting to rape, object rape, sodomy, or attempted rape or sodomy, the actor touches the anus, buttocks, or any part of the genitals of another, or touches the breast of a female, or otherwise takes indecent liberties with another, or causes another to take indecent liberties with the actor or another, with intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, without the consent of the other, regardless of the sex of any participant. A person commits aggravated sexual assault if: (a) in the course of a rape, object rape, forcible
sodomy, or forcible sexual abuse, the actor: (i) uses, or threatens the victim with the use of, a dangerous weapon as defined in Section 76-1-601; (ii) compels, or attempts to compel, the victim to submit to rape, object rape, forcible sodomy, or forcible sexual abuse, by threat of kidnapping, death, or serious bodily injury to be inflicted imminently on any person; or (iii) is aided or abetted by one or more persons; (b) in the course of an attempted rape, attempted object rape, or attempted forcible sodomy, the actor: (i) causes serious bodily injury to any person; (ii) uses, or threatens the victim with the use of, a dangerous weapon as defined in Section 76-1-601; (iii) attempts to compel the victim to submit to rape, object rape, or forcible sodomy, by threat of kidnapping, death, or serious bodily injury to be inflicted imminently on any person; or (iv) is aided or abetted by one or more persons; or (c) in the course of attempted forcible sexual abuse, the actor: (i) causes serious bodily injury to any person; (ii) uses, or threatens the victim with the use of, a dangerous weapon as defined in Section 76-1-601; (iii) attempts to compel the victim to submit to forcible sexual abuse, by threat of kidnapping, death, or serious bodily injury to be inflicted imminently on any person; or (iv) is aided or abetted by one or more persons; or

**Sexual Harassment**

Sexual harassment is considered to be unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- i. Submission to such conduct is made either explicitly or implicitly, a term or condition of an individual’s academic progress or achievement;
- ii. Submission to or rejection of such conduct by an individual is used as the basis for decisions regarding academic achievement or progress affecting such individual, or
- iii. Such conduct has the purpose or effect of unreasonably interfering with an individual’s academic progress or creating an intimidating, hostile, or offensive academic environment.

Sexual harassment is behavior that threatens or makes an individual uncomfortable; an individual being harassed feels powerless and/or controlled by another person. Quid pro quo is a type of sexual harassment that occurs when a student or employee provides sexual favors to receive a benefit or to avoid some type of adverse consequence. A general guideline to follow is that if the other person does not reciprocate, does not appear to be happy with the attention, or is avoiding contact with another individual, then the behavior should stop. A previous romantic relationship does not protect someone from being charged with harassment once the accuser makes it clear that he/she is no longer interested in having a relationship with the accused.

The following list highlights examples of complaints constituting sexual harassment:

- Unwanted sexual advances
- Making or threatening reprisals after a negative response to sexual advances
- Conduct including leering, whistling or catcalls, making sexual gestures, making sexual comments about a person’s clothing or body, or displaying sexually suggestive objects, pictures, cartoons or posters
- Making sexually derogatory comments, epithets, slurs or jokes
- Asking personal questions about a person’s sex life, fantasies, preferences or history
- Repeatedly asking out a person who is not interested
- Spreading rumors about a person’s sex life
- Making sexual propositions, insults or threats
- Graphic verbal commentaries about an individual's body, suggestive or obscene letters, notes or invitations
- Physical conduct that includes touching, assaulting, or impeding or blocking movements
- Sexual orientation comments objectionable to gays or lesbians
Sexual Misconduct
Sexual misconduct is a range of behavior that includes but is not limited to non-consensual sexual intercourse, non-consensual sexual contact, sexual exploitation, sexual harassment, sexual violence, dating/relationship violence, domestic violence, and stalking.

Sexual Violence
According to the United States Department of Education Office of Civil Rights, sexual violence “refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (e.g., due to the student’s age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent).”

Stalking
The US Department of Justice defines stalking as “a pattern of repeated and unwanted attention, harassment, contact or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear.” Repeatedly communicating with, following, threatening or spreading rumors about a person who does not want the attention are actions that may constitute stalking according to the Department of Justice.

Nevada state law defines stalking as a person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated, harassed or fearful for the immediate safety of a family or household member, and that actually causes the victim to feel terrorized, frightened, intimidated, harassed or fearful for the immediate safety of a family or household member, commits the crime of stalking.

Utah state law defines stalking by stating that a person is guilty of stalking who intentionally or knowingly engages in a course of conduct directed at a specific person and know or should know that the course of conduct would cause a reasonable person: (a) to fear for the person’s own safety or the safety of the third person; or (b) to suffer other emotional distress. A person is guilty of stalking who intentionally or knowingly violates: (a) a stalking injunction issued pursuant to Title 77, Chapter 3a, Stalking Injunctions; or (b) a permanent criminal stalking injunction issued pursuant to this section. In any prosecution under this section, it is not a defense that the actor: (a) was not given actual notice that the course of the conduct was unwanted; or (b) did not intend to cause the victim fear or other emotional distress.

The following list highlights examples of complaints of stalking:

- Repeated, unwanted, intrusive, and frightening communications from the perpetrator
- Repeatedly leaving or sending an individual unwanted items or presents
- Following or waiting for an individual at places such as home, school, work, or places of recreation
- Making direct or indirect threats to harm an individual, her/his children, relatives, friends or pets
- Damaging or threatening to damage an individual’s property
- Spreading rumors about an individual on the internet or other public forums

Other Key Terms and Definitions

Complainant
An individual who is making an allegation of sexual misconduct.

Respondent
An individual who is being accused of sexual misconduct.
**Reporting Sexual Misconduct**

Students reporting sexual misconduct have the right to file complaints with external law enforcement agencies as well as the University. The University standard for evaluating the validity of a complaint is “more likely than not”. Both the student filing the complaint and the accused student have the right to have an advisor of her/his choice present during all meetings/interviews/proceedings. Investigations of complaints against Roseman University students will be undertaken by the Title IX coordinator. Investigations involving student complaints against a Roseman employee(s) and/or with non-students affiliated with the University (e.g., preceptor, adjunct faculty member) will be undertaken jointly by the Title IX Coordinator and a designated representative from the Human Resources Office.

This policy replaces all previous policies on the handling of Student Sexual Misconduct.
Roseman University’s Student Sexual Misconduct Policy and Procedure
[The reference to ‘student’ includes residents and interns.]

A. Reporting and University Response

Any member of the University community may file a written complaint alleging a student violation of the University’s sexual misconduct policy with the University’s Title IX Coordinator.

A complainant has the right to file a criminal complaint. The University will not dissuade a complainant from filing a criminal complaint.

The University’s Title IX investigation shall be adequate, reliable, impartial, and prompt and, if necessary, include the opportunity for both parties to present witnesses and other evidence. As a guideline, the University will strive to complete the entire investigation process, which includes conducting the fact-finding investigation, holding a hearing or engaging in another decision-making process to determine whether the alleged sexual violence occurred and created a hostile environment, and determining what actions the school will take to eliminate the hostile environment and prevent its recurrence, including imposing sanctions against the respondent and providing remedies for the complainant and school community, as appropriate, within 60 days. However, the time frame for completion of a specific investigation may vary according to a variety of factors.

B. Preliminary Investigation and, If Appropriate, Preparation of Charge(s)

1. Upon receipt of the complaint, Title IX Coordinator (or designee) reviews the complaint to determine if it warrants consideration as a formal charge. The final decision to bring a formal charge rests with the Title IX Coordinator (or designee).

2. If the Title IX Coordinator (or designee) determines that no charge will be filed, when applicable, the Title IX Coordinator (or designee) shall notify the Complainant, in writing, of that determination.

3. If the Title IX Coordinator (or designee) determines that a formal charge is warranted, the Title IX Coordinator (or designee) will prepare and present a formal written charge to the Respondent as well as a request to meet with the Respondent. The request for a preliminary meeting will also inform the Respondent that he/she has the right to have an advisor of her/his choice present during this meeting.

C. Preliminary Meetings

1. During the preliminary meeting with the Respondent, the Title IX Coordinator (or designee) shall address the following issues with the Respondent:

   a. Review and explain the formal charge against the Respondent.

   b. Explain the sexual misconduct policy process and remind the Respondent that he/she has a right to a copy of the University’s sexual misconduct policy.

   c. Explain the Respondent’s rights listed below as provided for in the University’s sexual misconduct policy process:

      (i) **Hearing.** The Respondent has a right to a hearing conducted in accordance with the University Sexual Misconduct Board (USMB) procedures.

      (ii) **Advisor.** The Respondent has a right to the services of an advisor of her/his choice.
- An advisor may attend the preliminary meeting, and all other related meetings with the Respondent, hearings, or investigative interviews with the Respondent once the investigative and disciplinary process has commenced.

- An advisor is not allowed to make oral statements, ask questions, question witnesses or raise objections during a hearing or meeting. An advisor may request a brief break to provide advice to the Respondent.

- Meetings and the USMB hearing will not be unreasonably delayed because of the Respondent’s advisor’s availability.

(iii) Right to Remain Silent / Not Participate in the Process. The Respondent has the right to remain silent and/or not participate in the process. However, if the Respondent does not participate in the process, the charge may continue to be investigated, including referral to the USMB, and if appropriate, sanctions may be imposed on the Respondent.

2. The Respondent will be informed that he/she has two (2) business days to choose one of the following options in writing:

   a. He/she can accept responsibility for the charge(s). If the Respondent accepts responsibility for the charges, the matter will be referred to the USMB for appropriate sanction(s). The USMB shall consult with and discuss the sanctions with the Respondent’s Dean(s)/Program Director(s) (or designee) and the Title IX Coordinator (or designee) before imposing sanctions. The Respondent will also be informed that he/she retains the right to appeal the sanction.

   b. He/she can deny responsibility for the charge(s). If the Respondent denies responsibility for any charge, the investigation will continue and the matter may be referred to the USMB.

   c. If the Respondent does not provide a written choice of the two options listed above within two (2) business days, the investigation will proceed and the USMB may review the case.

3. If the Respondent accepts responsibility for a charge of engaging in sexual misconduct and the sanctions imposed by the USMB, the Title IX Coordinator (or designee) shall notify the Complainant in writing of such outcome and sanctions that directly relate to the Complainant.

For Title IX purposes, a school must inform the complainant as to whether or not it found that the alleged conduct occurred, any individual remedies offered or provided to the complainant or any sanctions imposed on the respondent that directly relate to the complainant, and other steps the school has taken to eliminate the hostile environment, if the school finds one to exist, and prevent recurrence. Sanctions that directly relate to the complainant include, but are not limited to, requiring the respondent to stay away from the complainant until both parties graduate, prohibiting the respondent from attending school for a period of time, transferring the respondent to other classes, or another campus.

The Clery Act requires, and FERPA permits, postsecondary institutions to inform the complainant of the institution’s final determination and any disciplinary sanctions imposed on the perpetrator in sexual violence cases (as opposed to all harassment and misconduct covered by Title IX), not just those sanctions that directly relate to the complainant.

4. If the Respondent does not accept responsibility for the charges, the Title IX Coordinator (or designee) will meet with the Complainant and address the following issues:
a. Inform the Complainant that the Respondent has not accepted responsibility for the charges.

b. Explain the sexual misconduct policy process and remind the Complainant that he/she has a right to a copy of the University’s sexual misconduct policy.

c. Explain the Complainant’s rights listed below as provided for in the University’s sexual misconduct policy process:

(i) Hearing. The Complainant has a right to attend and participate in the hearing in accordance with the University Sexual Misconduct Board (USMB) procedures.

(ii) Advisor. The Complainant has a right to the services of an advisor of her/his choice.

- An advisor may attend the preliminary meeting, and all other related meetings with the Complainant, hearings, or investigative interviews with the Complainant once the investigative and disciplinary process has commenced.

- An advisor is not allowed to make oral statements, ask questions, question witnesses or raise objections during a hearing or meeting. An advisor may request a brief break to provide advice to the Complainant.

- Meetings and the USMB hearing will not be unreasonably delayed because of the Complainant’s advisor’s availability.

(iii) Right to Remain Silent / Not Participate in the Process. The Complainant has the right to be silent and stop participating in the process at any time. The Complaint’s decision to stop participating in the process may affect the outcome.

D. Interim Protective Measures

Depending on the specific nature of the problem, the Title IX Coordinator (or designee) may impose interim protective measures on either the Complainant, Respondent or both during the sexual misconduct investigation and resolution process. These interim protective measure(s) could include, but are not limited to:

- “no contact orders” with the Complainant, Respondent or other appropriate third parties,
- prohibiting or limiting the Respondent’s and/or Complainant’s access to certain locations,
- classroom accommodations,
- prohibited or restricted participation in academic, extracurricular or other activities,
- any other measures the Title IX Coordinator (or designee) feels are necessary to protect the health or safety of the Complainant, the Respondent, other students, or other members of the University community.

E. Investigation and Title IX Coordinator’s Final Report

The Title IX Coordinator (or designee) will conduct an investigation and prepare a report for the University Sexual Misconduct Board (USMB). The report will address, at a minimum, the following issues:

a. The Complainant’s written statement or an investigator’s summary of the Complainant’s complaint(s)

b. The Respondent’s written statement or an investigator’s summary of the Respondent’s response
c. Written statements from each witness and/or an investigator’s summary of each witness’s report
d. Any other documentation or evidence relevant to the investigation
e. The investigator’s evaluation of the complainant’s, respondent’s, and each witness’s credibility
f. When appropriate, the investigator’s determination if consent was given
g. The investigator’s determination of the findings of fact using the standard “more likely than not”
h. The investigator’s determination if it is more likely than not that the Respondent is responsible for the sexual misconduct charge(s)

This final report must be completed before the USMB meets to conduct a hearing. The Complainant and the Respondent will be allowed to review, but not copy, this report in a controlled setting at least five (5) days before the hearing. The USMB members assigned to hear the case will receive a copy of this report at least five (5) days before the hearing. The Board is responsible for reviewing the Title IX Coordinator’s report and will act as another layer of review if either party disputes the report.

F. Right to Meet with Title IX Coordinator about Board Hearing Process

The Respondent and Complainant will each be offered the opportunity to meet independently (in person, telephonically, or via videoconference) with the Title IX Coordinator (or designee) prior to the hearing to remind and review the hearing process, her/his rights in connection with the hearing and possible outcomes for the hearing. The advisor is permitted to attend this meeting.

G. University Sexual Misconduct Board (USMB) Composition, Role and Hearing Preparation

1. The USMB shall consist of five members:
   a. The five members will be randomly selected from a pool of Roseman University full-time employees who have received annual training on issues related to sexual misconduct and the appropriate processes for evaluating complaints of sexual misconduct.
   b. The five members will meet and select a Chair.
   c. The Title IX Coordinator/Investigator is not a member of the USMB.

2. The purpose of the USMB is to determine if it is more likely than not that a Respondent is responsible for violating the University’s policies on sexual misconduct and, when it finds a respondent responsible for violating the sexual misconduct policy, to impose sanctions.

3. The Chair shall create and distribute an evidence packet to the members of the Board. In addition to the Title IX investigation report provided to Board members, the Chair will make sure members receive documentation or witnesses provided by the Respondent and/or Complainant seventy-two (72) hours before the hearing.

H. University Sexual Misconduct Board Notice of Hearing

If the Respondent’s actions lead to the charge(s) being evaluated by the USMB, the Chair of the Board shall prepare and deliver to the Respondent and Complainant a notice of hearing. This notice may be delivered to the Respondent and Complainant in person, by electronic mail or US mail. The date of the hearing shall not be less than five (5) business days from the date of the notice. The notice of the hearing shall include:
   a. The Respondent’s name
   b. The date, time and location of the hearing
c. The alleged violation(s) of the sexual misconduct
d. The name of Complainant(s) or the name of the person who filed the complaint, if not the same
e. The name and title of the Board’s Chair and the names and titles of the other Board members

I. Right to Petition for Removal of Any Member of the University Sexual Misconduct Board

The Respondent and Complainant each has the right to petition that any member of the USMB be removed on the basis of bias or conflict of interest. The Respondent and/or the Complainant must submit a written petition seeking removal of any members to the Title IX Coordinator (or designee) at least three (3) business days prior to the start of hearing. This written petition must state the reasons for the request. The Title IX Coordinator (or designee) will respond in writing within forty-eight (48) hours of the request.

J. Right to Present Evidence to the Board

The Respondent and Complainant each has the right to request witnesses be allowed to testify at the hearing, submit witness statements, and other documentary evidence to the Board Chair within seventy-two (72) hours before the start of the hearing. The Respondent and Complainant can submit a list of the full name of each witness called to testify at the hearing on her/his behalf, witness statements, and/or other documentary evidence that was not contained in the Title IX Coordinator’s (or designee’s) report to the Board. The Board Chair has the right to grant, deny, or modify/edit the Respondent’s and/or Complainant’s request to allow witness testimony or other documentary evidence to be presented during the hearing.

Requests to call additional witnesses or submit additional evidence less than seventy-two (72) hours from the start of the hearing will not be considered by Board. However, the Respondent or Complainant each has the right to submit the testimony from the witness and/or additional evidence that was not available or that they were not aware of before the deadline to submit such evidence with any appeal.

K. Access to Documentation Submitted to the Board

In order to ensure the confidentiality of the hearing and to protect the privacy rights of the Respondent, Complainant, and witnesses, the Respondent or the Complainant shall not copy, reproduce, or disclose to anyone other than her/his advisor any documentation submitted to the Board. This includes the Title IX Coordinator’s (or designee’s) report, witness statements and/or any other documentation that is not in the Title IX Coordinator’s (or designee’s) report. The Respondent and Complainant will be allowed to review, but not copy, in a controlled setting the Title IX Coordinator’s (or designee’s) report at least five (5) days before the hearing and any other documentation, including the final witness list, submitted to the Board within forty-eight (48) hours before the hearing.

L. Hearing Attendance and Confidentiality

The Respondent and Complainant and each party’s advisor have the right to attend the entire Board hearing except for deliberations.

The Complainant has the right to request to attend the hearing and provide testimony telephonically, in a separate space so that he/she doesn’t have to physically view the Respondent, or via videoconferencing capability. The request for accommodation must be made to the Chair at least seventy-two (72) hours before the start of the hearing. The Chair will respond to the Complainant’s request at least twenty-four (24) hours before the hearing.
The Title IX Coordinator (or designee) will only grant requests to reschedule a hearing when extra-ordinary circumstances exist. The Board Chair may proceed with the hearing in the absence of the Respondent, the Complainant, and/or any witnesses.

University Sexual Misconduct Board hearings are closed to the public. The taking of photographs in the hearing room or the witness waiting area, the broadcasting of the hearing without the Chair’s consent, or the recording of the hearing without the Chair’s consent, shall not be permitted.

M. Questions for Respondent, Complainant, and/or Witnesses

The Respondent and the Complainant each has the right to give the Chair of the Board a list of questions that each party wishes to put to any individual who gives oral testimony at the hearing, including any questions about the Title IX Coordinator’s report to the Board. An initial set of questions must be submitted to the Chair at least twenty-four (24) hours prior to the hearing. After all of the witnesses have testified, the Chair will ask the Respondent and Complainant if they have any follow-up questions each wishes to ask any of the witnesses. The Board will take a brief recess for the Respondent and/or Complainant to prepare and submit follow-up questions to the Chair.

The Chair shall use her or his discretion in determining the appropriateness and relevance of each question posed to an individual providing oral testimony. The Department of Education Office of Civil Rights issued guidance in April 2014 that questions about the complainant’s sexual history with anyone other than the alleged perpetrator should not be permitted. Further, a school should recognize that the mere fact of a current or previous consensual dating or sexual relationship between the two parties does not itself imply consent or preclude a finding of sexual violence.

The Chair shall protect the Complainant, the Respondent, and any witnesses from insulting treatment and inappropriate questions, including inappropriate questions involving dating or sexual history.

N. Process for Conducting the Hearing

1. The Chair will preside over the hearing and shall have the following responsibilities:

   a. Provide copies of the Title IX Coordinator’s (or designee) report, final witness list, as well as any other documentation approved by the Chair, to the Respondent and to the Complainant, at the beginning of the hearing.

   b. Control admission of persons to the hearing. The Chair has the discretion to order the removal of any person attending the hearing that is disrupting the hearing and/or threatening hearing participants. The Chair will only allow witnesses to be present during the hearing when they are testifying.

   c. Recognize individuals who have the right to speak during a hearing. No one shall address the Board until he/she has been recognized by the Chair. The Chair has the right to revoke a participant’s right to speak at any time, including when the speaker is addressing the Board.

   d. Control the conduct of participants. The Chair will protect the Complainant, the Respondent and any witnesses from insulting treatment and inappropriate questions.

   e. Controlling the flow and pace of the hearing. The Chair has the right to determine if breaks will be granted, when breaks will be granted and the duration of any breaks.

   f. At the end of the hearing, the Chair will also collect all documentation provided to participants. The
Respondent, Complainant and their respective advisors are not allowed to copy materials provided to them during the hearing.

2. All Board members must be present throughout the hearing.

   a. If a member of the Board must leave before the Respondent and Complainant have the opportunity to give a closing statement, the Chair has the discretion to place the hearing in recess and reconvene the hearing within two (2) business days.

   b. If a member of the Board during the hearing disqualifies her/him-self or is unable to continue to participate in the hearing process for any reason, the Chair shall place the hearing in recess and reconvene with the hearing within five (5) business days after replacing the Board member. The Chair shall select a replacement from a pool of Roseman University employees who have received annual training on issues related to sexual misconduct and the appropriate processes for evaluating complaints of sexual misconduct. The Respondent and Complainant will be given the opportunity to object to the replacement within two (2) business days of being informed.

3. Hearing Order

   a. The Chair will introduce him/herself, the members of the Board, the Respondent, the Respondent’s advisor (if applicable), the Complainant (if applicable), and the Complainant’s advisor (if applicable).

   b. The Chair shall read the charge(s) to the Respondent, and the Respondent shall state whether he/she accepts the responsibility for each charge.

      (i) If the respondent is not present or doesn’t respond, the Chair will state that the Respondent has not accepted responsibility for the charge(s).

      (ii) If the Respondent accepts responsibility for all charge(s), the Chair will call for Board members to meet in a closed session. If a majority of the members confirm that the Respondent accepted responsibility for all charges, the Chair will reconvene the meeting in open session and inform the Complainant and Respondent that the hearing is concluded because the Respondent accepted responsibility for all charges.

      (iii) If the Respondent does not accept responsibility for all charge(s), the hearing will continue and focus on evidence and/or witnesses that support or refute the charge(s).

   c. The Chair will announce that the Board, in order to find the Respondent responsible, must use the standard that it is more likely than not that the Respondent is responsible for the charge(s) of sexual misconduct.

   d. The Respondent and then the Complainant shall be provided an opportunity to make an opening statement.

   e. The Title IX Coordinator (or designee) will affirm her/his conclusion in the report submitted to the Board if it is more likely than not that the Respondent is responsible for the sexual misconduct charge(s).

      (i) Board members will be allowed to question the Title IX Coordinator or designee regarding the Report.
(ii) After the Board members have completed their initial round of questioning of the Title IX Coordinator or designee, the Chair will pose questions submitted by the Respondent and Complainant to the Title IX Coordinator (or designee) that the Chair deems appropriate and relevant to the charge.

(iii) Board members will have the opportunity to ask follow-up questions.

f. The Respondent shall have the opportunity to call witnesses referenced in the Title IX Coordinator’s report as well as any witnesses he/she submitted to the Chair seventy-two (72) hours before the hearing.

(i) Each witness will affirm the truthfulness of her/his testimony.

(ii) Board members will be allowed to question each witness.

(iii) After the Board members have completed their initial round of questioning of the witness, the Chair will pose questions submitted by the Respondent and Complainant to the witness that the Chair deems appropriate and relevant to the charge.

(iv) Board members will have the opportunity to ask follow-up questions.

g. The Complainant shall have the opportunity to call witnesses referenced in the Title IX Coordinator’s report as well as any witnesses he/she submitted to the Chair seventy-two (72) hours before the hearing.

(i) Each witness will affirm the truthfulness of her/his testimony.

(ii) Board members will be allowed to question each witness.

(iii) After the Board members have completed their initial round of questioning of the witness, the Chair will pose questions submitted by the Respondent and Complainant to the witness that the Chair deems appropriate and relevant to the charge.

(iv) Board members will have the opportunity to ask follow-up questions.

h. After all witnesses have been interviewed, the Chair will ask the Respondent and the Complainant if they wish to pose follow-up questions to any of the witnesses. If either the Respondent or Complainant wishes to ask follow-questions, the Chair will briefly recess the hearing to allow time for the Respondent and/or Complainant to submit written questions to the Chair. The Chair will determine if he/she will call a witness back into the hearing to pose any of the questions submitted by the Respondent and/or Complainant.

i. The Respondent can submit evidence submitted to the Chair seventy-two (72) hours before the hearing and approved by the Chair.

j. The Complainant can submit evidence submitted to the Chair seventy-two (72) hours before the hearing and approved by the Chair.

k. The Complainant will be given the opportunity to make a closing statement.
l. The Respondent will be given the opportunity to make a closing statement.

m. At the conclusion of the closing statements, the Chair will state that the open session of the hearing has concluded and that parties other than the Board members and Chair are dismissed from the hearing.

n. The Chair will call for the hearing to go into closed session so that the Board members can deliberate in private.

4. Deliberation

a. The Chair will be present during the Board’s deliberation and may participate in the discussion of the case.

b. Board members shall not make any finding of fact that is not supported by evidence presented during the hearing.

c. If at least three of the five Board members find it more likely than not that the Respondent is responsible for a charge, the Respondent is “responsible” for that charge.

d. The USMB shall consult with and discuss the sanctions with a “responsible” Respondent’s Dean(s)/Program Director(s) (or designee) and the Title IX Coordinator (or designee) before imposing sanctions.

e. The Chair shall write a brief statement outlining the Board’s decision. The Chair and the Board members will sign the statement and the statement will be placed in the Title IX Coordinator’s case file.

O. Notice of Outcome

The Respondent and Complainant can typically expect to receive written notice of the outcome of the hearing from the Board’s Chair within five (5) business days of the conclusion of the hearing. The Chair has the right to extend this deadline upon written notice to the Respondent and Complainant.

The Chair will send written notice of the Board’s hearing results simultaneously to the Complainant and Respondent. The Chair will also provide written notification to the Title IX Coordinator and the Respondent’s Dean(s)/Program Director(s).

P. Sanction(s)

When the Board finds the Respondent responsible for a charge of sexual misconduct, the Board will determine the student’s sanction(s). Violations of the University’s sexual misconduct policy could result in one or more of the following sanctions:

● Warning - written statement(s) that clearly indicates particular aspects of the behavior at issue and expectations for future behavior.

● No contact - an order to have no contact in any form with identified student, other students, or third party.

● Educational intervention(s) – an educational task such as a research paper, interview, lecture, observations, etc., that would increase the Respondent’s understanding of related issues and/or appropriate physical
boundaries.

- Restitution - reimbursement for property damage, and/or for the Complainant’s personal and medical expenses.

- Discretionary sanctions – work assignments, service to the University or other related discretionary Assignments.

- Behavioral agreements – a written statement of expectations that the Respondent must adhere to.

- Psychological assessment – an assessment conducted by a licensed or certified mental health professional. The Respondent would be responsible for payment for all services.

- Participation in community and/or University service projects.

- University and/or Academic Program Probation.

- University suspension – the suspension would not exceed more than one year, after which the student may be eligible to return. Conditions for readmission shall be specified.

- University dismissal – with the opportunity to reapply to the University. Conditions for readmission shall be specified.

- University expulsion – permanent severance of the student from the University.

- Any other sanctions deemed appropriate by the Respondent’s Dean(s)/Program Director(s) or designee.

**Q. Appeals Process**

1. The University President shall designate a Roseman employee who has been appropriately trained to evaluate sexual misconduct cases to serve as the University’s Sexual Misconduct Appeals Officer.

2. The Complainant and the Respondent have the right to submit a written appeal of the Board’s decisions to the Appeals Officer within five (5) business days of the receipt of the Board’s written notice. In order for the Appeals Officer to consider an appeal, the appeal must address:

   a. At least one of the following questions:

      - Was there a procedural error in the investigative and/or hearing process that significantly biased the outcome of the case?
      - Is there previously unavailable, relevant evidence that would now significantly impact the outcome of the case?
      - Was the sanction(s) substantially disproportionate to the findings of the case?

      and

   b. The remedies or action(s) the individual is seeking to address her/his concerns
3. The Appeals Officer will typically render a decision on the appeal within thirty (30) days of receipt of the written appeal. The Appeals Officer can decide to:

   a) Reject the appeal
      or
   b) Remand the case to a USMB that is composed of members that didn’t serve on the original Board and have the new Board hear the case
      or
   c) Modify the sanctions imposed by the USMB
      or
   d) Implement some or all of the remedies requested in the written appeal

4. The decision of the Appeals Officer shall be final.

5. The Appeals Officer will provide written notification of her/his decision simultaneously to the Respondent and the Complainant. The Appeals Officer will also provide written notification to the Title IX Coordinator and the Respondent’s Dean(s)/Program Director(s).

   This policy replaces all previous policies on the handling of Student Sexual Misconduct.