



**SEXUAL VIOLENCE AND SEXUAL HARASSMENT MISCONDUCT POLICY**

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## I. Summary

The term “sexual misconduct” is a broad term used to refer to all the prohibited sexual violence and sexual harassment behaviors under this policy. As used in this policy, sexual misconduct may also encompass criminal conduct under Pennsylvania and/or federal law. Additionally, sexual misconduct under this policy may result in civil and/or administrative legal consequences. This policy, created as a model policy for handling allegations of sexual misconduct, was developed by the Commonwealth of Pennsylvania and is available for use by any postsecondary institution located within this Commonwealth that is authorized to grant an associate degree or higher academic degree.

## II. Definitions

**Consent** – A knowing and voluntary agreement to engage in specific sexual activity at the time of the activity. In order to be valid, consent must be knowing, voluntary, active, present and ongoing. Consent is not present when an individual is incapacitated due to alcohol, drugs, or sleep, or otherwise without capacity to provide consent due to intellectual or other disability or other condition.

When alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. When drug use is involved, incapacitation is a state beyond being under the influence of or impaired by the use of the drug. Alcohol and other drugs impact each individual differently. Determining whether an individual is incapacitated requires an individualized determination.

When determining whether a person has the capacity to provide consent, Rosedale Technical College will consider whether a sober, reasonable person in the same position knew or should have known that the other party could or could not consent to the sexual activity. When determining whether consent has been provided, all the circumstances of the relationship between the parties will be considered.

**Intimate-Partner Violence** – An act of violence or threatened act of violence by or against one person who is, or has been, involved in a sexual, dating, domestic, or other intimate relationship with another person. This includes:

1. Dating Violence – Violence, including but not limited to sexual or physical abuse, or the threat of such violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person. The existence of such a relationship will be determined based on the reporting party’s statement and other relevant information, taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
2. Domestic Violence – Violence, including but not limited to sexual or physical abuse, or the threat of such violence, committed by a current or former spouse, or sexual or intimate partner; a person who is living as a spouse or who lived as a spouse; parents and children; other persons related by blood or marriage; or by someone with whom the person shares a child in common. Under the criminal laws of Pennsylvania certain offenses, including but not limited to, rape, aggravated assault, and stalking, can be deemed domestic violence depending on the relationship of the parties involved.

**Sexual Assault** – This includes the following:

1. Sexual Penetration Without Consent - Any penetration of the mouth, sex organs, or anus of another person, however slight by an object or any part of the body, when consent is not present. This includes performing oral sex on another person when consent is not present.

2. Sexual Contact Without Consent - Knowingly touching or fondling a person's genitals, breasts, buttocks, or anus, or knowingly touching a person with one's own genitals or breasts, when consent is not present. This includes contact done directly or indirectly through clothing, bodily fluids, or with an object. It also includes causing or inducing a person, when consent is not present, to similarly touch or fondle oneself or someone else.
3. Statutory Sexual Assault – The age of consent for sexual activity in Pennsylvania is 16. Minors under the age of 13 cannot consent to sexual activity. Minors aged 13-15 years old cannot consent to sexual activity with anyone who is 4 or more years older than they are at the time of the activity. Minors aged 16 years of age or older can legally consent to sexual activity with anyone they choose, as long as the other person does not have authority over them as defined in Pennsylvania's institutional sexual assault statute.

**Sexual Exploitation** – Taking sexual advantage of another person or violating the sexual privacy of another when consent is not present. This includes, but is not limited to, the following actions (including when they are done via electronic means, methods or devices):

1. Sexual voyeurism or permitting others to witness or observe the sexual or intimate activity of another person without that person's consent;
2. Indecent exposure or inducing others to expose themselves when consent is not present;
3. Recording or distributing information, images or recordings of any person engaged in sexual or intimate activity in a private space without that person's consent.
4. Prostituting another individual;
5. Knowingly exposing another individual to a sexually transmitted disease or virus without that individual's knowledge; and
6. Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

**Sexual Harassment** – Unwelcome conduct of a sexual nature where either or both of the following are present:

1. Quid pro quo: Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's employment or education, including participation in any Rosedale Technical College program and/or activity; or
2. Hostile Environment: Such conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from Rosedale Technical College's education or employment programs and/or activities. The existence of a hostile environment is to be judged both objectively (meaning a reasonable person would find the environment hostile) and subjectively (meaning the impacted individual felt the environment was hostile).

A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical.

**Stalking** – Engaging in a course of conduct or repeatedly communicating and/or committing acts toward another person under circumstances that demonstrate or communicate an intent:

1. to place the other person in reasonable fear of bodily injury; or
2. to cause substantial emotional distress to the other person.

A course of conduct is when a person engages in two or more acts that include, but are not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveys, threatens, or communicates to or about a person in a prohibited way, or interferes with a person’s property.

Stalking includes the concept of cyberstalking, in which electronic media such as the Internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

**Retaliation** – Any action, directly or through others, which is aimed to deter a reasonable person from reporting sexual misconduct or participating in an investigation or hearing or action that is done in response to such activities. A finding of retaliation under this policy is not dependent on a finding that the underlying sexual misconduct occurred.

### **III. Policy**

#### **A. Title IX, VAWA and Nondiscrimination Statement**

Rosedale Technical College prohibits any form of discrimination and harassment on the basis of sex, race, color, age, religion, national or ethnic origin, sexual orientation, gender identity or expression, pregnancy, marital or family status, medical condition, genetic information, veteran status, or disability in any decision regarding admissions, employment, or participation in a Rosedale Technical College program or activity in accordance with the letter and spirit of federal, state, and local non-discrimination and equal opportunity laws, such as Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, The Age Discrimination in Employment Act, The Americans with Disabilities Act and ADA Amendments Act, The Equal Pay Act, [any applicable local nondiscrimination ordinance] and the Pennsylvania Human Relations Act.

Rosedale Technical College also complies with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act, as amended by the Violence Against Women Act (VAWA). Title IX prohibits retaliation for asserting or otherwise participating in claims of sex discrimination. VAWA imposes additional duties on universities and colleges to investigate and respond to reports of sexual assault, stalking, and dating or domestic violence, and to publish policies and procedures related to the way these reports are handled. Rosedale Technical College has designated the Title IX Coordinator, to coordinate Rosedale Technical College’s compliance with Title IX and VAWA and to respond to reports of violations. Rosedale Technical College has directed Kim Bell, Director of Student Enrollment & Outreach (412-521-6200 x110, kim.bell@rosedaletech.org or help@rosedaletech.org) to coordinate Rosedale Technical College’s compliance with the Clery reporting related VAWA requirements as the Title IX Coordinator. Rosedale Technical College will promptly and equitably respond to all reports of sexual misconduct in order to eliminate the misconduct, prevent its recurrence, and redress its effects on any individual or the community.

#### **B. Scope of Policy**

This policy applies to all on campus and off-campus conduct that is likely to have a substantial adverse effect on any member of Rosedale Technical College community. There is no time limit for reporting allegations of

sexual misconduct, however, Rosedale Technical College strongly encourages the prompt reporting of sexual misconduct to allow Rosedale Technical College to respond promptly and effectively. If the reported respondent is not a member of Rosedale Technical College community or is no longer associated with Rosedale Technical College at the time of the report or at the time a resolution process is initiated, Rosedale Technical College may be unable to conduct an investigation or take disciplinary action.

Please see the **Reporting Sexual Misconduct** section below to make a report of misconduct, discrimination and/or harassment, or to file a complaint.

### **C. Statement on Privacy and Confidentiality**

Rosedale Technical College is committed to protecting the privacy of all individuals involved in a report of sexual misconduct. Every effort will be made to protect the privacy interests of all individuals involved. Privacy, confidentiality and privilege have distinct meanings under this policy.

Privacy generally means that information related to a report of sexual misconduct will only be shared with a limited circle of individuals, including individuals who “need to know” in order to assist in the review, investigation, or resolution of the report or to deliver resources or support services. While not bound by confidentiality or privilege, these individuals will be discreet and respect the privacy of all individuals involved in the process. All participants in an investigation of sexual misconduct, including advisors and witnesses, will be informed that privacy helps enhance the integrity of the investigation and protect the privacy interests of the parties and will be asked to keep any information learned in an investigation meeting or hearing confidential, to the extent consistent with applicable law.

Certain individuals are designated as having confidentiality. For reports made to employees designated with having confidentiality, Rosedale Technical College will respect the reporting party’s expectations of privacy **to the extent permissible by law** while still ensuring compliance with other reporting obligations. For example, complaints involving minors are subject to mandatory reporting requirements.

Individuals designated as having confidentiality are required to report the nature, date, time and general location of an incident to the Title IX coordinator. Confidential resources will not share other information with the Title IX Coordinator or any other employee of Rosedale Technical College without the express permission of the disclosing party. Confidential resources can provide information about Rosedale Technical College and off-campus resources, support services and other options. As noted above, because of the confidential nature of these resources, disclosing information to or seeking advice from a confidential resource does not constitute a report or complaint to Rosedale Technical College and will not result in a response or intervention by Rosedale Technical College. A person consulting with a confidential resource may later decide to make a report to Rosedale Technical College and/or law enforcement. Back on Track EAP - [www.backontrackeap.com](http://www.backontrackeap.com) – 1-800-566-5933

Communication with certain individuals may be privileged by operation of law and reports made to these individuals will not be shared with Rosedale Technical College Title IX Coordinator or law enforcement except in very limited situations, such as when failure to disclose the information would result in imminent danger to the individual or to others or as otherwise required by law. Back on Track EAP - [www.backontrackeap.com](http://www.backontrackeap.com) – 1-800-566-5933

Rosedale Technical College will generally respect a complainant’s choice whether to report an incident to local law enforcement or initiate Rosedale Technical College’s sexual misconduct resolution process, unless Rosedale Technical College determines that there is an overriding interest with respect to the safety or welfare of Rosedale Technical College community. Where a report involves suspected abuse of a child (an individual under the age of 18 at the time of the incident(s) as reported), all Rosedale Technical College employees and volunteers are required to notify local police and the ChildLine run by the Pennsylvania

Department of Human Services. All other members of Rosedale Technical College community are strongly encouraged to report suspected child abuse to law enforcement or the ChildLine.

All Rosedale Technical College proceedings are conducted in compliance with the requirements of the Family Educational Rights and Privacy Act (FERPA), the Clery Act, Title IX of the Education Amendments of 1972 (“Title IX”), Violence Against Women Act (VAWA), state and local law, and Rosedale Technical College policy. No information will be released from such proceedings, except as required or permitted by law and Rosedale Technical College policy.

Rosedale Technical College may share non-identifying information about reports received in aggregate form, including data about outcomes and sanctions.

#### **D. Prohibited Conduct**

Rosedale Technical College prohibits the following forms of conduct:

1. Sexual Assault including Sexual Penetration Without Consent, Sexual Contact Without Consent and Statutory Sexual Assault
2. Sexual Harassment
3. Sexual Exploitation
4. Intimate-Partner Violence, including Dating Violence and Domestic Violence
5. Stalking
6. Retaliation

This prohibited conduct can affect all genders, gender identities and sexual orientations. Some of these prohibited forms of conduct may also be crimes under Pennsylvania or federal law.

#### **E. Free Expression and Academic Freedom**

Rosedale Technical College is firmly committed to free expression and academic freedom and to creating and maintaining a safe, healthy, and harassment-free environment for all members of its community. Sexual misconduct, including retaliation, against members of Rosedale Technical College are not protected expression nor the proper exercise of academic freedom. Rosedale Technical College will consider principles of free expression and academic freedom in the investigation of reports of sexual misconduct or retaliation that involve an individual’s statements or speech.

#### **F. Alcohol and Drug Use Amnesty**

The health and safety of every student at Rosedale Technical College is of utmost importance. Rosedale Technical College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time sexual misconduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Rosedale Technical College strongly encourages students to report incidents of sexual misconduct. A witness to or individual who experience sexual misconduct, acting in good faith, who discloses any incident of sexual misconduct to Rosedale Technical College officials or law enforcement will not be sanctioned under Rosedale Technical College’s code of conduct for violations of alcohol and/or drug use policies occurring at or near the time of the incident(s) of sexual harassment or sexual violence. Rosedale Technical College may request the individual attend an approved alcohol or drug education program and without assessing any charges

for such program. This amnesty provision also applies to student groups making a report of sexual misconduct. Amnesty does not preclude or prevent action by police or other legal authorities pursuant to relevant state or federal criminal statutes.

#### **IV. Reporting Sexual Misconduct**

##### **A. Reporting Options**

Any individual, including a third party, may make a report concerning of sexual misconduct. Complainants and third parties are encouraged to report misconduct as soon as possible to allow Rosedale Technical College to respond promptly and effectively.

A person who has experienced sexual misconduct under this policy, or a person who witnesses sexual misconduct under this policy, has the right to simultaneously file a complaint with Rosedale Technical College and to pursue a criminal complaint with law enforcement. Victims and witnesses of sexual misconduct have the right to be assisted by Rosedale Technical College in notifying law enforcement authorities of sexual misconduct or they can decline to notify such authorities. Rosedale Technical College may, however, have a statutory reporting obligation when it becomes aware of certain factual allegations. Parties may also have options to file civil actions in court or with administrative agencies.

Rosedale Technical College has designated the Title IX Coordinator to oversee complaints of sexual misconduct at Rosedale Technical College. An individual who has experienced sexual misconduct has the right to choose whether to report the incident to Rosedale Technical College Title IX Coordinator for investigation. This official is trained to work with individuals who report sexual misconduct and have knowledge about resources and services, both on and off campus, including the availability of supportive measures.

Please call (412-521-6200) or email ([help@rosedaletech.org](mailto:help@rosedaletech.org)) Rosedale Technical College's Title IX Coordinator to set up a meeting if you have a complaint involving sexual misconduct. You can also call for general information.

The Title IX Coordinator, in consultation with others (as necessary), will conduct an initial assessment of the conduct, the reporting party's desired course of action, and the necessity for any supportive or interim measures to protect the safety of the complainant or the community. The goal is to eliminate any hostile environment. If a report of misconduct discloses a serious or immediate threat to the campus community, Rosedale Technical College will issue a timely notification to the community to protect the health or safety of the community. The timely notification will not include any identifying information about the complainant.

Please Note: Title IX Coordinators are not a confidential source of support. While they will address your complaint with sensitivity and will keep your information as private as possible, confidentiality cannot be guaranteed. For confidential resources, please contact Back on Track, 1-800-566-5933 or [backontrack.eap.com](http://backontrack.eap.com) Web ID: 1018 Password: confidential help (need to include space in password)

**Please Also Note:** Making a report is different from filing a complaint. A report is defined as notification of an incident of sexual misconduct to the Title IX Coordinator by any responsible employee or reporting person. A report may be accompanied by a request for (1) supportive or interim measures; (2) no further action; (3) a request to initiate an informal resolution process; and/or (4) the initiation of the formal complaint process. Filing a complaint initiates the Rosedale Technical College formal disciplinary process. (See Sexual Misconduct Resolution Process).

##### **B. Electronic and Anonymous Reporting**

You may also file a complaint about sexual misconduct using the appropriate links below. While anonymous complaints are accepted, Rosedale Technical College’s ability to address misconduct reported anonymously is significantly limited.

Individuals may use this link <https://www.rosedaletech.org/act16/> to electronically file a report of sexual misconduct with Rosedale Technical College.

Individuals may also file a report electronically by email to: [help@rosedaletech.org](mailto:help@rosedaletech.org)

An immediate auto-response email with information about resources and options will be sent in response to reports filed electronically.

### **C. Other Rosedale Technical College Reporting Options:**

Back on Track EAP - [www.backontrackeap.com](http://www.backontrackeap.com) – 1-800-566-5933

### **D. Criminal Reporting Options**

A complainant may seek resolution through Rosedale Technical College’s informal or formal resolution process. A complainant may also seek to initiate a criminal complaint, independent of or parallel with any resolution process of Rosedale Technical College. Rosedale Technical College’s policy, definitions, and burden of proof may differ from Pennsylvania criminal law. Neither law enforcement’s decision whether to prosecute, nor the outcome of any criminal prosecution, is determinative of whether sexual misconduct has occurred under this policy. In cases where there is a simultaneous law enforcement investigation, there may be circumstances when Rosedale Technical College may need to temporarily delay its investigation while law enforcement gathers evidence. However, Rosedale Technical College will generally proceed with its investigation and resolution of a complaint even during the time of a pending law enforcement investigation.

Local Law Enforcement:

Kennedy Police Department, 340 Forest Grove Road, Coraopolis PA 15108 - 412-331-2408

State Police:

Pennsylvania State Police Headquarters, 1800 Elmerton Avenue, Harrisburg, PA 17110 - 717-783-5599

### **E. External Reporting Options**

A person may also file a complaint with the U.S. Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html> or calling 1-800- 421-3481 or emailing [OCR.Philadelphia@ed.gov](mailto:OCR.Philadelphia@ed.gov).

A person may also file a complaint with the Pennsylvania Human Relations Commission by calling 717-787-9780 for the Harrisburg Regional Office; 412-565- 5395 for the Pittsburgh Regional Office; or 215-560-2496 for the Philadelphia Regional Office or visiting <https://www.phrc.pa.gov/Pages/default.aspx>.

Employees may also file a charge with the Equal Employment Opportunity Commission regarding an alleged violation of Title VII by calling 1-800-669-4000 or visiting <https://www.eeoc.gov/employees/howtofile.cfm>.

### **F. Reporting Obligations of Rosedale Technical College**

All Rosedale Technical College officials, employees (including student employees), and volunteers are considered “responsible employees” under Title IX and are obligated to report incidents of sexual misconduct



of which they become aware to the Title IX Coordinator, unless they serve in a role that makes such reports privileged or are recognized as providing a confidential resource (see Statement on Privacy and Confidentiality).

### **G. Assessment and Timely Warnings**

The Title IX Coordinator in consultation with others (as necessary) will conduct an initial assessment of the conduct, the reporting party's desired course of action, and the necessity for any interim measures or services to protect the safety of the complainant or the community. The goal is to eliminate any hostile environment. If a report of misconduct discloses a serious or immediate threat to the campus community, Rosedale Technical College will issue a timely notification to the community to protect the health or safety of the community. The timely notification will not include any identifying information about the complainant.

## **V. Sexual Misconduct Resolution Process**

### **A. Participant Roles**

1. A **complainant** is the person who has been impacted by an alleged policy violation and has chosen to participate in the resolution process.
2. A **respondent** is the person who is alleged to have violated Rosedale Technical College policy.
3. **Parties** is a term that refers to the complainant and the respondent collectively.
4. A **witness** is a person who has knowledge related to specific aspects of a case and may have reported such aspects to the institution.
5. An **advisor** is a support person who may be present to provide support to a complainant or respondent throughout an investigation and/or hearing provided the choice of advisor does not unduly delay the process. Advisors may not speak, write, or otherwise communicate with investigators, conduct administrators, hearing panel members, or appeal reviewers on behalf of the party being advised. Each party is responsible for coordinating and scheduling with their choice of advisor. A union representative may serve as an advisor, where applicable.

All participants have the responsibility to be truthful with the information they share at all stages of the process. Any individual who knowingly or intentionally provides false information as part of a report or investigation under this policy may be subject to discipline. This provision does not apply to a good faith report that is not substantiated or proven by a preponderance of the evidence.

### **B. Conflict of Interest**

Parties have the opportunity to raise the issue of a potential conflict of interest within two (2) days of being advised of the identity of the investigator, panel member, or appeal reviewer. The Title IX Coordinator will determine whether a conflict of interest exists. No investigator, panelist, or appeal reviewer will make findings or determinations in a case in which they have a conflict of interest.

### **C. Burden of Proof**

The burden of proof refers to who has the responsibility of showing a violation has occurred. It is always the responsibility of Rosedale Technical College to satisfy the burden of proof. The respondent does not have the burden to prove that a violation did not occur. Respondents may decide not to share their side of the story

or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from Rosedale Technical College and does not indicate responsibility. Additionally, [name of fact-finding committee] shall not make an adverse inference against a respondent for the respondent's refusal to participate in an investigation or hearing, nor will respondent's refusal to participate result in increased sanctions if the respondent is found responsible for the accusations.

#### **D. Standard of Proof**

Rosedale Technical College uses the preponderance of the evidence standard in investigations of complaints alleging sexual misconduct and any related violations. This means that the investigation determines whether it is more likely than not that a violation of the policy occurred.

#### **E. Timeline for Resolution**

Rosedale Technical College will resolve all cases in a prompt and timely manner, however, the timeline will vary based on the circumstances of the case, including breaks in the academic calendar, availability of the parties and witnesses, scope of the investigation, need for interim actions, and unforeseen or exigent circumstances. The parties will be periodically updated on the status of their case.

#### **F. Title IX Outreach**

Upon receipt of a report of sexual misconduct, the Title IX coordinator will provide resources and support information by contacting the potential complainant and offering an initial meeting between the reporting party and the Title IX coordinator. The initial meeting is optional and the reporting party may decline. The purpose of the initial meeting is for the Title IX coordinator to gain a basic understanding of the nature and circumstances of the report and provided information about resources, supportive measures, and resolution options to the reporting party.

#### **G. Initial Inquiry**

Rosedale Technical College will conduct a preliminary inquiry to determine if the allegations, if true, would rise to the level of a violation of Rosedale Technical College policy. The possible next steps include the following: (1) A decision to close the case when insufficient evidence exists to move forward or because the allegation, even if proven, would not violate Rosedale Technical College policy; (2) Informal Action (see below); or (3) Formal Resolution (see below).

#### **H. Interim and Supportive Measures**

When Rosedale Technical College becomes aware of an allegation of sexual misconduct and the complainant or other affected parties, including the respondent, request interim or supportive measures, Rosedale Technical College will take appropriate supportive and interim measures to protect affected parties, to assist the parties, and to protect against retaliation. Rosedale Technical College may also take interim measures to protect the Rosedale Technical College community at large.

1. Supportive Measures. The following are examples, but not an exhaustive list, of supportive measures:
  - a. Making appropriate changes to academic programs, including changes in class schedule, accommodations to permit the affected party to take an incomplete or drop a course or courses without penalty, permitting the affected party to attend a class via skype or other alternative means, providing an academic tutor, or extending deadlines for assignments;
  - b. Making appropriate changes to on-campus residential housing situations or

- providing assistance in finding alternate housing;
- c. Changing an employee's work assignment or schedule;
- d. Providing the affected party with an escort to and from class or campus work location;
- e. Arranging appropriate transportation services to ensure safety;
- f. Providing information on available counseling services through the counseling center or other appropriate office, or referral to an off-campus agency;
- g. Assisting the affected party in obtaining medical and other services, including access to rape crisis centers;
- h. Assistance with filing a criminal complaint and/or seeking an order of protection; and/or
- i. Enforcing a protection from abuse order.

Supportive measures will be individualized and appropriate based on the information available, making every effort to avoid depriving any student of their education or impacting employment. The measures needed by each party may change over time, and parties should communicate with Rosedale Technical College throughout the resolution process to ensure the supportive measures are effective.

## 2. Interim Measures

- a. No Contact Orders - When respondent is a student employee or volunteer of the institution, the complainant has the right to request Rosedale Technical College-issued "no contact order" under which continued intentional contact with the complainant would violate this policy. No contact orders may be issued for both the complainant and the respondent, as well as other individuals as appropriate.
- b. Interim Suspension - In exceptional circumstances where it is determined that a respondent is a continuing threat to the health and safety of the community, Rosedale Technical College may seek an emergency interim suspension of a student or take similar emergency measures against an employee, consistent with applicable Rosedale Technical College policy. For students who are given an interim suspension, Rosedale Technical College will convene a hearing within 10 working days, unless extenuating circumstances warrant an extension, in which case a hearing shall be provided at the earliest possible date.
- c. Process for Review of Interim Measures for students who are given an interim suspension, Rosedale Technical College will convene a hearing within 10 working days, unless extenuating circumstances warrant an extension, in which case a hearing shall be provided at the earliest possible date.
- d. For interim measures involving employees, Rosedale Technical College will follow applicable requirements in Rosedale Technical College policy.

### I. Informal Resolution

Informal resolution involves a mutual agreement by the parties to resolve the matter by mutual agreement. Informal resolution may not be used when formal resolution is desired by a reporting party or where the Title IX Coordinator has determined that Rosedale Technical College needs to proceed with an investigation. Informal resolution may take place at any time prior to a decision being issued in a hearing or a respondent taking responsibility. The informal resolution process will be conducted by the Title IX Coordinator. Both the complainant and the respondent have the right to end the informal resolution process at any time. Any informal resolution must be acceptable to the complainant, the respondent, and the Title IX Coordinator.

If a resolution is reached, the complainant and the respondent shall be notified in writing, and the Title IX Coordinator will confer with appropriate parties to memorialize the agreed upon resolution and any consequences for non-compliance in a memorandum. This memorandum will be included in the respondent's student record. If no agreement is reached within a reasonable time, the Title IX Coordinator shall proceed with the formal resolution process.

Informal resolution does not result in findings related to responsibility.

#### **J. Formal Resolution**

1. Notification to Respondent - If a case is referred for formal resolution, the respondent will be notified of the alleged misconduct and given an opportunity to respond. The notification will include the allegations, identities of the parties involved, the specific section(s) of Rosedale Technical College policy allegedly violated, the precise conduct allegedly constituting the potential violation, and the date and location of the incident (if known). This notice will be given before any initial interview. Rosedale Technical College may modify the list of policies allegedly violated based on additional information learned during investigation.
2. Acceptance of Responsibility - Prior to the conclusion of a sexual misconduct investigation, the respondent may elect to take responsibility for the prohibited conduct by contacting the Title IX Coordinator in writing. The Title IX Coordinator will issue a brief outcome determination summarizing the allegations and stating the respondent has accepted responsibility, and refer the matter to the appropriate office for sanctioning. Following the determination of sanctions, parties may appeal the sanctions but not the finding(s) of responsibility.
3. Investigation - For investigations of respondents who are employees Rosedale Technical College will follow applicable requirements in Rosedale Technical College policy. For investigations of respondents who are students Rosedale Technical College will follow applicable requirements in Rosedale Technical College policy.
4. Hearing - For hearings for respondents who are employees Rosedale Technical College will follow applicable requirements in Rosedale Technical College policy. For hearings for respondents who are students Rosedale Technical College will follow applicable requirements in Rosedale Technical College policy.
5. Sanctioning- For sanctions for respondents who are employees Rosedale Technical College will follow applicable requirements in Rosedale Technical College policy. For sanctions for respondents who are students Rosedale Technical College will follow applicable requirements in Rosedale Technical College policy.

#### **K. Sanctions and Protective Measures**

Following a determination of Rosedale Technical College's institutional disciplinary proceedings regarding domestic violence, sexual assault, or stalking, Rosedale may impose the following sanctions on the perpetrator and protective measures for the complainant:

##### **1. Sanctions**

Sanctions that may be imposed by Rosedale Technical College but are not limited to:

- Written warning
- Mandatory Counseling

- Mandatory education and training
- No contact order
- Changes in academic, working, or living arrangements
- Revocation of certain campus privileges
- Suspension or
- Expulsion

Rosedale Technical College has flexibility in the type and range of sanctions to impose on the perpetrator depending on the severity of the incident, but has a process in place to ensure that sanctions imposed are consistent with sanctions imposed in past incidents of similar conduct and are not imposed unequally based on gender or gender identity.

## **2. Protective Measures**

Protective measures that the school may utilize to protect the complainant include but are not limited to:

- An order of protection, a no contact order or similar lawful order from the institution
- Changes to transportation, working, academic or living situations
- Providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred
- Providing an escort to ensure that the complainant can move safely between classes and activities
- Ensuring the complainant and perpetrator do not share classes or extracurricular activities
- Providing comprehensive, holistic victim services including medical counseling and academic support services such as tutoring or
- Arranging for the complainant to have extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty.

When determining what protective measures to establish Rosedale Technical College will consider a number of factors including the specific needs and requests expressed by the complainant; the age of the students involved; the severity or pervasiveness of the conduct; any continuing effects on the complainant; whether the complainant and alleged perpetrator share the same residence hall, class, dining hall, transportation or job location; and whether other judicial measures have been taken to protect the complainant (e.g. civil protection order).

### **L. Appeal**

The complainant or respondent may appeal the hearing outcome and/or sanction(s).

For appeals by parties who are employees Rosedale Technical College will follow applicable requirements in Rosedale Technical College policy. For appeals by parties who are students Rosedale Technical College will follow applicable requirements in Rosedale Technical College policy.

In the event sanctions were imposed, it shall be in the discretion of the Title IX Coordinator and the sanctioning office whether the sanctions shall be implemented or stayed pending resolution of an appeal.

The limited grounds for appeal are as follows:

- New information that could affect the outcome of the matter and was not reasonably available through the exercise of due diligence at the time of the hearing below;
- A deviation from Rosedale Technical College policy or procedures that materially affected the hearing outcome or sanctions; and
- The sanction is too harsh or too lenient.

### **Rights/Responsibilities**

- A. Reports and complaints have different meanings. An individual has a right to make a report of sexual misconduct to Rosedale Technical College, which may be accompanied by request for supportive measures. An individual also has a right to make a complaint of sexual misconduct, which is a request to initiate Rosedale Technical College's an informal resolution process or a formal disciplinary process, which includes an investigation and may proceed to a formal hearing.
- B. Prior to the conclusion of a sexual misconduct investigation, the reporting party may request to withdraw the complaint by contacting the Title IX Coordinator in writing. He or she will determine whether to close the case or conclude the investigation without the complainant's continued participation.
- C. An individual also has the right to report sexual misconduct to law enforcement, separate and apart from any report or complaint made to Rosedale Technical College.
- D. At the time a report is made, the reporting party does not have to decide whether to file a complaint or make a report of sexual misconduct to law enforcement.
- E. An affected party has the right to request supportive measures from Rosedale Technical College, which may include interim contact restrictions.
- F. The reporting party has the right to seek medical treatment to address physical and mental health and to preserve evidence.
- G. A report may become a formal complaint, either initiated by the reporting party or Rosedale Technical College depending on the outcome of the Title IX assessment. To file a complaint, please contact the Title IX Coordinator.

## **VI. Sexual Violence – Victim Procedures**

If you are a victim of sexual violence, including sexual violence, dating violence, domestic violence, or stalking your first priority should be to get to a place of safety. You should then obtain any necessary medical treatment. Information about the alleged offense should be provided to the institute's Title IX Coordinator as possible. Time is a critical factor for evidence collection and preservation.

Rosedale Technical College strongly advocates that a victim of sexual violence reports the incident

to the police in a timely manner and, if requested to do so by the victim, Rosedale Tech's Title IX Coordinator will assist the victim in contacting the police. Filing a police report will not obligate the victim to prosecute, nor will it subject the victim to scrutiny or judgmental opinions from officers. The victim has the right at all times to decline to notify police of the incident

Filing a police report will:

- Ensure that a victim of sexual assault receives the necessary medical treatment and tests, at no expense to the victim;
- Provide the opportunity for collection of evidence helpful in prosecution or establishing a no contact order, which cannot be obtained later (ideally a victim of sexual assault should not wash, douche, use the toilet, or change clothing prior to a medical/legal exam); and
- Assure the victim has access to free confidential counseling from counselors specifically trained in the area of sexual assault crisis intervention

When a victim contacts the Police Department, the local Police Sex Crime Unit will typically be notified as well. The victim may choose for the investigation to be pursued through the criminal justice system. The Title IX Coordinator will guide the victim through the available options and support the victim in their decision. Various counseling options are available through the Rape and Sexual Abuse Center and the Victim Intervention Program of the local Police Department.

#### **A. Procedures for Disciplinary Action in cases of sexual violence**

Rosedale Technical College's Title IX Coordinator has primary responsibility for receiving, evaluating, and investigating allegations of sexual violence, including alleged domestic violence, dating violence, sexual assault, and stalking. The Title IX Coordinator is responsible for informing the School Director and the Director of Facilities within 24 hours after receiving a sexual violence report, for purposes of maintaining accurate Clery Act crime statistics.

The Title IX Coordinator has primary responsibility for ensuring that any disciplinary proceeding involving an allegation of sexual violence is conducted promptly, fairly, and impartially and in accordance with these and other related institutional procedures.

Once the Title IX Coordinator receives a report of sexual violence, the following steps will be followed:

1. The Title IX Coordinator will immediately assess whether the information in the report warrants a timely warning and, if so, will contact the school Director and the Director of Facilities immediately to execute that procedure in accordance with the institution's timely warning procedures. The Title IX Coordinator will immediately inform the victim of his/her right to "interim measures" during the pendency of an investigation of the alleged sexual violence, including obtaining an order of protection, a no contact order, restraining order or similar lawful order from the police or the institution. [The School's] obligation is to protect the identity of the victim in any Clery Act report or in other publicly available recordkeeping. [The School] is also required to keep any interim measures provided to the victim confidential, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the

accommodation or protective measure.

2. The Title IX Coordinator will, within 24 hours of receipt of the report, provide to the individual making the report of an alleged sex offense:
  - a) Information on counseling, health, mental health, victim advocacy, legal assistance services, immigration assistance, student financial aid, and any other services available to the victim at [the School] or in the community;
  - b) Information on the victim's right to report the incident to local police and the fact that [the School's] institutional investigation and disciplinary procedure and any criminal proceeding may occur simultaneously; and
  - c) Options to facilitate changes to transportation, working, academic, and/or living situations, or additional protective measures, if requested, while the investigation is pending, even if the victim chooses not to report the crime to police.
3. The Title IX Coordinator and/or the Director of Facilities will investigate the incident by interviewing: the individual filing the report, the accused, [School] employees, witnesses, and others as necessary to gather facts about the alleged incident. The Title IX Coordinator may be assisted by other employees after determining that such employees do not have a conflict of interest and have received training in Title IX and VAWA.
4. The Title IX Coordinator will ensure that all individuals involved in the disciplinary procedure apply a "preponderance of the evidence" standard when evaluating sexual violence reports. [The School] does not provide for a formal hearing process but both parties may be assisted by a support person of choice, including an attorney.
5. In all cases, the Title IX Coordinator will maintain regular communications with both the accuser and accused and provide both parties with equal opportunity to provide information, witness statements, evidence, and other information that may be necessary for Rosedale to fully evaluate the alleged offense.
6. The Title IX Coordinator will, barring extenuating circumstance, complete the investigation and make a determination regarding any necessary discipline of accused and remedies to accuser within 60 days of the date that the report is first received by the Title IX Coordinator.
7. The Title IX Coordinator will inform both parties of its final determination. [The School] does not provide for an appeal of final determinations.
8. The sanctions that may be imposed by the school following a determination that dating violence, domestic violence, sexual assault, or stalking occurred include, but are not limited to, counseling, education, changes in academic or living arrangements, no contact orders, suspension or expulsion of a student, or termination of employment.
9. Both the accuser and accused shall be simultaneously informed in writing of:
  - a) The outcome of any disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault, or stalking;
  - b) The institution's procedures for the accused and victim to appeal the results of the institutional disciplinary proceeding (if any such appeal rights become available);
  - c) Any change to the results that occurs prior to the time that such results become final; and
  - d) When such results become final.



10. The Title IX Coordinator will determine if the incident is indicative of a systemic issue and, if so, work with Rosedale employees, including [the Campus Security Authority and School Director, to recommend changes to the school's policies, procedures, or training to prevent re-occurrence.

Rosedale Technical College requires the Title IX Coordinator and all employees involved in the investigation and disciplinary process to receive training at least annually on issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

#### **Statement of Policy: Interim Measures**

Within 24 hours of a Title IX Coordinator receiving a report of sexual violence, the Title IX Coordinator will provide written notification to the victim about options for, and available assistance in, changing academic, living, transportation, and working situations, if so requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

Students may also reach out to the following for assistance:

Back on Track EAP - [www.backontrackeap.com](http://www.backontrackeap.com) – 1-800-566-5933

#### **Statement of Policy: Protection of Confidentiality of Victim of Sexual Violence**

There are not pastoral or professional counselors on campus. Confidential crisis, mental health, and victim resource hotline numbers are posted on campus as well as listed in the Student Catalog, should students need to contact these agencies. Victims of sexual violence reported to the Title IX Coordinator will be provided with information regarding local rape crisis centers and other counseling services.

Reports about sexual violence or other crimes may be provided informally and in confidence to [the School's] Title IX Coordinator, who will make every attempt to maintain privacy of the information in accordance with your request and Family Educational Rights and Privacy Act of 1974 (FERPA) regulations unless [the School] is under an obligation to disclose your identity to protect the safety of others. You will be informed if [the School] cannot maintain the requested confidentiality of the information.

[The School] strongly encourages persons who are victims of sexual violence who do not want to report the incident to policy or file a complaint using [the School's] institutional procedures to report the incident to the Title IX Coordinator voluntarily and on a confidential basis solely to permit the inclusion of that information in [the School's] annual crime statistics. With such information, [the School] can keep an accurate record of the number of similar incidents, determine where there is a pattern of crime with regard to a particular location, method, or assailant, and alert the campus community to potential danger. [The School] will make best efforts to maintain the privacy of that information and to comply with FERPA.

[The School] is required to, and will, keep the identity of victims of sexual violence private in any public report of Clery Act crimes. Reporting to the institution will also enable the victim to receive protective measures. At the victim's request, [the School] will maintain as confidential any protective measures provided to the victim, to the extent that making such information confidential does not impair the ability of the institution to provide those protective measures. The victim will be informed by the institution if providing a protective measure may reveal the identity of the victim.

Rosedale Technical College encourages reporting of sexual violence to the police. Filing a police report will:

- Ensure that a victim of sexual assault receives the necessary medical treatment and tests, at no expense to the victim;
- Provide the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later (ideally a victim of sexual assault should not wash, douche, use the toilet, or change clothing prior to a medical/legal exam); and
- Assure the victim has access to free confidential counseling from counselors specifically trained in the area of sexual assault crisis intervention.

Police reports are public records under state law, and therefore [the School] cannot guarantee the absolute confidentiality of reports of crime obtained from police records but will make every effort to maintain the confidentiality of such information to the greatest extent permitted by law.

### **Statement of Policy: Victim Support Services**

Once the Title IX Coordinator receives a report of sexual violence, the Title IX Coordinator will provide the individual making the report with written information regarding existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims, both on campus and in the community.

Students may also reach out to the following for assistance:

Back on Track EAP - [www.backontrackeap.com](http://www.backontrackeap.com) – 1-800-566-5933

### **Sanctions and Protective Measures- Sexual Violence**

Following a determination of Rosedale Technical College’s institutional disciplinary proceedings regarding domestic violence, sexual assault, or stalking, Rosedale may impose the following sanctions on the perpetrator and protective measures for the complainant:

#### 1. Sanctions

Sanctions that may be imposed by Rosedale Technical College but are not limited to:

- Written warning
- Mandatory Counseling
- Mandatory education and training
- No contact order
- Changes in academic, working, or living arrangements
- Revocation of certain campus privileges
- Suspension or

- Expulsion

Rosedale Technical College has flexibility in the type and range of sanctions to impose on the perpetrator depending on the severity of the incident, but has a process in place to ensure that sanctions imposed are consistent with sanctions imposed in past incidents of similar conduct and are not imposed unequally based on gender or gender identity.

## 2. Protective Measures

Protective measures that the school may utilize to protect the complainant include but are not limited to:

- An order of protection, a no contact order or similar lawful order from the institution
- Changes to transportation, working, academic or living situations
- Providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred
- Providing an escort to ensure that the complainant can move safely between classes and activities
- Ensuring the complainant and perpetrator do not share classes or extracurricular activities
- Providing comprehensive, holistic victim services including medical counseling and academic support services such as tutoring or
- Arranging for the complainant to have extra time to complete or re-take a class or withdraw from a class without an academic or financial penalty.

When determining what protective measures to establish Rosedale Technical College will consider a number of factors including the specific needs and requests expressed by the complainant; the age of the students involved; the severity or pervasiveness of the conduct; any continuing effects on the complainant; whether the complainant and alleged perpetrator share the same residence hall, class, dining hall, transportation or job location; and whether other judicial measures have been taken to protect the complainant (e.g. civil protection order).

When reference to [the school] is made please infer Rosedale Technical College.