

Discrimination and Harassment Policy & Procedure For Students and Employees

Policy On Non-Discrimination and Harassment

In compliance with applicable federal, state and local laws, Russell Sage College (“RSC”) does not discriminate on the basis of race, color, gender, gender characteristics and expression, sex, sexual orientation, age, religion, actual or perceived national origin, citizenship or immigration status, actual or perceived gender identity, familial status, pregnancy, marital status, military or veteran status, physical or mental disability, status as a victim of a sexual assault, relationship violence, and/or stalking, genetic predisposition and carrier status, previous convictions as specified by law, or any other characteristics protected by applicable law (the “Protected Characteristics”), in any aspect of its admissions or financial aid programs, educational programs and related activities, or with respect to employment and advancement in employment. RSC is committed to providing a work and learning environment that is free from discrimination and harassment by anyone based on an individual’s Protected Characteristics, or because the individual has engaged in activity protected by federal or state laws prohibiting discrimination.

Sexual harassment is a form of discrimination that subjects an individual to inferior conditions of employment or education due to their gender, gender identity, gender expression (perceived or actual), and/or sexual orientation. Sexual harassment is often viewed simply as a form of gender-based discrimination, but recognizes that discrimination can be related to or affected by other identities beyond gender. Under the New York State Human Rights Law, it is illegal to discriminate based on sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, military status, disability, predisposing genetic characteristics, familial status, marital status, criminal history, or status as a victim of domestic violence. Our different identities impact our understanding of the world and how others perceive us. For example, an individual’s race, ability, or immigration status may impact their experience with gender discrimination in the workplace.

The purpose of this policy is to teach employees and students to recognize discrimination, including discrimination due to an individual’s intersecting identities, and provide the tools to take action when it occurs. All employees, managers, and supervisors are required to work in a manner designed to prevent sexual harassment and discrimination at RSC. This policy is one component of RSC’s commitment to a discrimination-free environment.

The Title IX Coordinator/EEO Specialist and the Director of Human Resources have been designated by RSC to coordinate its efforts to comply with applicable nondiscrimination laws and regulations. Questions or concerns regarding the scope and application of RSC’s Discrimination and Harassment Policy & Procedure For Students and Employees (the “Policy”) should be directed to the Title IX Coordinator/EEO Specialist, Amanda Bastiani, 518-244-4809, titleix@sage.edu (students), or to Human Resources, 518-244-2391, hr@sage.edu (employees).

Cait York, Director of Disability Services, is the individual designated by RSC to coordinate its efforts to comply with reasonable accommodation obligations towards qualified individuals with disabilities. Questions or concerns regarding reasonable accommodation of individuals with disabilities should be directed to RSC Section 504 Compliance Officer, Cait York, Director of

Disability Services, Third Floor of the Albany Library and Hart Hall, RSC 518-292-8624, 518-244-2208.

NOTE: If a Formal Complaint is filed that alleges conduct that could constitute Title IX Sexual Harassment, as defined under the [Title IX Grievance Procedure](#) the Title IX Grievance Procedure will apply, and this Complaint, Investigation, and Disciplinary Procedure DOES NOT apply. However, if the Formal Title IX Complaint is dismissed, RSC may still choose to investigate the alleged discrimination or harassment under this policy, if RSC determines that the alleged discrimination or harassment may potentially violate this policy.

NOTE: If a complaint alleges conduct that could constitute a Sexual Offense, as defined under the [Sexual Offense Policy](#), the Investigation and Disciplinary Procedures for Sexual Offense Cases Handled Outside of the Title IX Grievance Procedure will apply, and this Complaint, Investigation, and Disciplinary Procedure DOES NOT apply. However, if the Sexual Offense investigation is dismissed, RSC may still choose to investigate the alleged discrimination or harassment under this policy, if RSC determines that the alleged discrimination or harassment may potentially violate this policy.

Goals of this Policy:

Sexual harassment and discrimination are against the law. After reading this policy, employees, students, and covered individuals will understand their right to a campus free from harassment. Employees, students, and covered individuals will also learn what harassment and discrimination look like, what actions they can take to prevent and report harassment, and how they are protected from retaliation after taking action. The policy will also explain the investigation process into any claims of harassment. Employees, students, and covered individuals are encouraged to report sexual harassment or discrimination by filing a complaint internally with RSC. Employees, students, and covered individuals can also file a complaint with a government agency or in court under federal, state, or local anti discrimination laws. To file a complaint with the New York State Division of Human Rights, please visit <https://dhr.ny.gov/complaint>. To file an employment complaint with the United States Equal Employment Opportunity Commission, please visit <https://www.eeoc.gov/filing-charge-discrimination>.

Sexual Harassment and Discrimination Prevention Policy:

1. This policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with RSC. In the remainder of this document, the term “employees” refers to this collective group. This policy also applies to students. The policy also applies to anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in our workplace, including independent contractors, gig workers, temporary workers, and persons providing equipment repair, cleaning services, or any other services through a contract with RSC. For the remainder of this policy, we will use the term “covered individual” to refer to these individuals who are not direct employees of RSC.

2. Sexual harassment is unacceptable. Any employee, student, or covered individual who engages in sexual harassment, discrimination, or retaliation will be subject to action, including appropriate discipline for employees and students. In New York, harassment does not need to be severe or pervasive to be illegal. Employees, students, and covered individuals should not feel discouraged from reporting harassment because they do not believe it is bad enough, or conversely because they do not want to see a colleague fired over less severe behavior. Just as harassment can happen in different degrees, potential discipline for engaging in sexual harassment will depend on the degree of harassment and might include education and counseling. It may lead to suspension or termination when appropriate.
3. Retaliation is prohibited. Any employee, student, or covered individual that reports an incident of sexual harassment or discrimination, provides information, or otherwise assists in any investigation of a sexual harassment or discrimination complaint is protected from retaliation. No one should fear reporting sexual harassment if they believe it has occurred. So long as a person reasonably believes that they have witnessed or experienced such behavior, they are protected from retaliation. Any employee or student of RSC who retaliates against anyone involved in a sexual harassment or discrimination investigation will face disciplinary action, up to and including termination. All employees, students, and covered individuals working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, the Title IX Coordinator/EEO Specialist, or Director of Human Resources. All employees, students and covered individuals who believe they have been a target of such retaliation may also seek relief from government agencies, as explained below in the section on Legal Protections.
4. Discrimination of any kind, including sexual harassment, is a violation of our policies, is unlawful, and may subject RSC to liability for the harm experienced by targets of discrimination. Harassers may also be individually subject to liability and employers or supervisors who fail to report or act on harassment may be liable for aiding and abetting such behavior. Employees at every level who engage in harassment or discrimination, including managers and supervisors who engage in harassment or discrimination or who allow such behavior to continue, will be penalized for such misconduct. Students who engage in harassment or discrimination will also be penalized for this behavior.
5. RSC will conduct a prompt and thorough investigation that is fair to all parties. An investigation will happen whenever management receives a complaint about discrimination or sexual harassment, or when it otherwise knows of possible discrimination or sexual harassment occurring. RSC will keep the investigation confidential to the extent possible. If an investigation ends with the finding that discrimination or sexual harassment occurred, RSC will act as required. In addition to any required discipline, RSC will also take steps to ensure a safe work or educational environment for the employee(s) or student(s) who experienced the discrimination or harassment. All employees, including

managers and supervisors, are required to cooperate with any internal investigation of discrimination or sexual harassment.

6. All employees, students and covered individuals are encouraged to report any harassment or behaviors that violate this policy. All employees and students will have access to a complaint form to report harassment and file complaints. Use of this form is not required. For anyone who would rather make a complaint verbally, or by email, these complaints will be treated with equal priority. An employee, student, or covered individual who prefers not to report harassment to RSC may instead report harassment to the New York State Division of Human Rights and/or the United States Equal Employment Opportunity Commission. Complaints may be made to both RSC and a government agency.

Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe or become aware of, to the Title IX Coordinator/EEO Specialist or the Director of Human Resources.

7. This policy applies to all employees, students, and covered individuals, such as contractors, subcontractors, vendors, consultants, or anyone providing services in the workplace, and all must follow and uphold this policy. This policy must be provided to all employees in person or digitally through email upon hiring and will be posted prominently in all work locations. For those offices operating remotely, in addition to sending the policy through email, it will also be available on the organization's shared network.

What Is Prohibited Harassment?

Prohibited harassment is a form of discrimination that is unlawful under federal, state, and (where applicable) local law and is unacceptable. Prohibited harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. The New York State Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics.

In general, harassment can consist of spoken, written, and/or electronically transmitted words, signs, jokes, pranks, intimidation, or physical violence based on the protected characteristics of an employee or student, which alters the work or educational environment of that employee or student. While the most well-known type of prohibited harassment is sexual harassment, applicable laws and/or this policy also prohibit harassment based on any of the Protected Characteristics. In addition, retaliatory harassment resulting from an individual's protected activity (i.e., opposition to prohibited discrimination or participation in a statutory complaint process) is also prohibited.

Discrimination and harassment are prohibited on RSC campuses. Harassment of students who are working or studying outside the campus proper is prohibited as well. RSC is committed to

preventing and correcting all such harassment, not just harassment which is severe or pervasive enough to provide the basis for a claim under federal or state law.

What is Sexual Harassment?

RSC is committed to maintaining a campus free from sexual harassment. Sexual harassment is a form of gender-based discrimination that is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender. Sexual harassment is not limited to sexual contact, touching, or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees, students, or covered individuals differently because of their gender.

Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female. A transgender person is someone whose gender is different from the sex they were assigned at birth. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary. Some may identify as transgender, but not all do. Respecting an individual's gender identity is a necessary first step in establishing a safe workplace or educational environment.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee, student or covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of the RSC's policy. The intent of the behavior, for example, making a joke, does not neutralize a harassment claim. Not intending to harass is not a defense. The impact of the behavior on a person is what counts.

Sexual harassment includes unwelcome conduct which is either directed at an individual because of that individual's gender identity or expression (perceived or actual), or is of a sexual nature, when:

- The purpose or effect of this behavior unreasonably interferes with an individual's work or academic performance or creates an intimidating, hostile or offensive work or educational

environment. The impacted person does not need to be the intended target of the sexual harassment;

- Employment or education depends implicitly or explicitly on accepting such unwelcome behavior; or
- Decisions regarding an individual's employment or education are based on an individual's acceptance to or rejection of such behavior. Such decisions for employees can include what shifts and how many hours an employee might work, project assignments, as well as salary and promotion decisions.

There are two main types of sexual harassment:

- Behaviors that contribute to a **hostile work or educational environment** include, but are not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, gender identity, or gender expression. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory, or discriminatory statements which an employee, student, or covered individual finds offensive or objectionable, causes the individual discomfort or humiliation, or interferes with the employee's job or educational performance.
- Sexual harassment also occurs when a person in authority tries to trade job benefits or educational benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions, or privileges of employment. This is also called **quid pro quo** harassment.

Any employee, student, or covered individual who feels harassed is encouraged to report the behavior so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be discrimination and is covered by this policy.

This Policy prohibits all forms of sexual harassment, regardless of whether the harassment may give rise to a legal claim under Title IX, Sexual Offense Policy, or state or federal law. Conduct that does not meet the definition of sexual harassment under Title IX may still be prohibited under RSC's Sexual Offense Policy or this Policy.

Examples of Sexual Harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited. **This list is just a sample of behaviors and should not be considered exhaustive.** Any employee, student, or covered individual who believes they have experienced sexual harassment, even if it does not appear on this list, should feel encouraged to report it:

- Physical acts of a sexual nature, such as:
 - Rape, sexual battery, molestation, or attempts to commit these assaults; and

- Intentional or unintentional physical conduct which is sexual in nature, such as touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's or student's body, or poking another employee's or student's body.
- Unwanted sexual advances, propositions or other sexual comments, such as:
 - Requests for sexual favors;
 - Subtle or obvious pressure for unwelcome sexual activities;
 - Repeated requests for dates or romantic gestures, including gift giving;
- Sexually oriented gestures, noises, remarks, jokes, questions, or comments about a person's sexuality, sexual experience, or romantic history which create a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely or students are learning remotely can create a similarly hostile work environment;
- Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look;
 - Remarks regarding an employee's or student's gender expression, such as wearing a garment typically associated with a different gender identity; or
 - Asking employees to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.
- Sexual or discriminatory displays or publications anywhere in the workplace or on RSC's premises, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning, pornographic.
 - This also extends to the virtual or remote workspace and can include having such materials visible in the background of one's home during a virtual meeting.
- Sexual exploitation occurs when an individual takes non-consensual, unfair, or abusive advantage of another for their own advantage, benefit, entertainment or profit. Examples include, but are not limited to:
 - Non-consensual photo or video taking or sharing, or audio taping of sexual activity or other intimate parts of another person without knowledge or consent.
 - Voyeurism is the intentional use or installation of an imaging device to surreptitiously view, broadcast or record a person dressing or undressing or the sexual or other intimate parts of such a person at a place and time when such person has a reasonable expectation of privacy, without such person's knowledge or consent.
 - The disrobing or exposure of another person without their consent.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or gender expression, such as:
 - Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, or name-calling;
 - Intentional misuse of an individual's preferred pronouns;
 - Creating different expectations for individuals based on their perceived identities;
 - Dress codes that place more emphasis on women's attire.

Who Can be a Target of Sexual Harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. Harassment does not have to be between members of the opposite sex or gender. New York Law protects employees, students, and all covered individuals described earlier in the policy. **Harassers can be anyone on campus.** A supervisor, a supervisee, or a coworker can all be harassers. Anyone else on campus can also be harassers including a student, an independent contractor, contract worker, vendor, client, customer, patient, constituent, or visitor.

Sexual harassment does not happen in a vacuum and discrimination can be impacted by biases and identities beyond an individual's gender. For example:

- Placing different demands or expectations on black female employees than white female employees can be both racial and gender discrimination;
- An individual's immigration status may lead to perceptions of vulnerability and increased concerns around illegal retaliation for reporting sexual harassment; or
- Past experiences as a survivor of domestic or sexual violence may lead an individual to feel re-traumatized by someone's behaviors in the workplace.

Individuals bring personal history with them to the workplace that might impact how they interact with certain behavior. It is especially important for all employees and students to be aware of how words or actions might impact someone with a different experience than their own in the interest of creating a safe and equitable workplace or educational environment.

A type of sexual harassment known as "quid pro quo" harassment occurs when a person in authority tries to trade job or academic benefits for sexual favors. This can include hiring, promotion, grading, scheduling, continued enrollment or employment, or any other terms, conditions or privileges of enrollment or employment. To avoid the potential for quid pro quo sexual harassment, it is the policy of RSC that no sexual relationship should exist between supervisor (or evaluator) and subordinate, including between student workers and their supervisors, or between teachers and students. If a sexual relationship develops in such a situation, the supervisory authority and/or responsibility for grading, evaluation, etc. should be promptly transferred to another individual.

Where Can Sexual Harassment Occur?

Unlawful sexual harassment is not limited to the physical workplace itself or to the RSC campus. It can occur while employees or students are traveling for business or at employer or industry sponsored events or parties. Calls, texts, emails, and social media usage by employees, students, or covered individuals can constitute unlawful harassment, even if they occur away from RSC's premises, on personal devices, or during non-work hours.

Sexual harassment can occur when employees are working remotely from home as well, or when students are taking remote classes. Any behaviors outlined above that leave an employee feeling

uncomfortable, humiliated, or unable to meet their job requirements constitute harassment even if the employee, covered individual, or student is at home when the harassment occurs. Harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones.

Prohibition of Retaliation

Retaliation is unlawful and is any action by an employer or supervisor that punishes an individual upon learning of a harassment claim, that seeks to discourage an employee, student or covered individual from making a formal complaint or supporting a sexual harassment or discrimination claim, or that punishes those who have come forward. These actions need not be job-related or occur in the workplace to constitute unlawful retaliation. For example, threats of physical violence outside of work hours or disparaging someone on social media would be covered as retaliation under this policy.

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

- Demotion, termination, denying accommodations, reduced hours, or the assignment of less desirable shifts;
- Publicly releasing personnel files;
- Refusing to provide a reference or providing an unwarranted negative reference;
- Labeling an employee as “difficult” and excluding them from projects to avoid “drama”;
- Undermining an individual’s immigration status; or
- Reducing work responsibilities, passing over for a promotion, or moving an individual’s desk to a less desirable office location.

Retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- Made a complaint of sexual harassment or discrimination, either internally or with any government agency;
- Testified or assisted in a proceeding involving sexual harassment or discrimination under the Human Rights Law or any other anti-discrimination law;
- Opposed sexual harassment or discrimination by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of suspected harassment;
- Reported that another employee or student has been sexually harassed or discriminated against; or
- Encouraged a fellow employee or student to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

RSC also prohibits retaliation against any individuals who engage in protected activity under the Violence Against Women Act, the Clery Act, Title VI, Title VII, Title IX, the New York Human Rights Law, the ADA, the Rehabilitation Act, the ADEA, and other federal and state civil rights laws.

Any employee or student who becomes aware of retaliation against a student or employee should contact the Title IX Coordinator/EEO Specialist, the Director of Human Resources, or other senior officer immediately.

Reporting Sexual Harassment

Everyone must work toward preventing sexual harassment, but leadership matters. Supervisors and managers have a special responsibility to make sure employees feel safe at work and that workplaces are free from harassment and discrimination. Any employee, student, or covered individual is encouraged to report harassing or discriminatory behavior to a supervisor, manager, the Title IX Coordinator/EEO Specialist, or Director of Human Resources. If, for some reason, an employee, student, or covered individual does not feel comfortable reporting discrimination or prohibited harassment to a supervisor, manager, the Title IX Coordinator/EEO Specialist, or Director of Human Resources, they may also report it to any senior officer of RSC. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, the Title IX Coordinator/EEO Specialist, or Director of Human Resources.

Reports of discrimination and harassment may be made verbally or in writing. A written complaint form is attached to this policy (as **Exhibit A**) if an employee, student, or covered individual would like to use it, but the complaint form is not required. Individuals who are reporting discrimination or harassment on behalf of others may use the complaint form and should note that it is on another's behalf. A verbal or otherwise written complaint (such as an email) on behalf of oneself or another is also acceptable.

Employees, students, and covered individuals who believe they have been a target of harassment may at any time seek assistance in additional available forums, as explained below in the section on Legal Protections.

Supervisory Responsibilities

Supervisors and managers have a responsibility to prevent sexual harassment and discrimination. All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing or discriminatory behavior, or for any reason suspect that sexual harassment or discrimination is occurring, are required to report such suspected sexual harassment to the Title IX Coordinator/EEO Specialist or Director of Human Resources.

Managers and supervisors should not be passive and wait for an employee to make a claim of harassment. If they observe such behavior, they must act.

Supervisors and managers can be disciplined if they engage in sexually harassing or discriminatory behavior themselves. Supervisors and managers can also be disciplined for failing to report suspected sexual harassment or allowing sexual harassment to continue after they know about it.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

While supervisors and managers have a responsibility to report harassment and discrimination, supervisors and managers must be mindful of the impact that harassment and a subsequent investigation has on victims. Being identified as a possible victim of harassment and questioned about harassment and discrimination can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors and managers must accommodate the needs of individuals who have experienced harassment to ensure the workplace is safe, supportive, and free from retaliation for them during and after any investigation.

Bystander Intervention

Any employee or student witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander is **required** to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.

1. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
2. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;
3. A bystander can record or take notes on the harassment incident to benefit a future investigation;
4. A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
5. If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment on RSC's premises.

Complaints and Investigations of Discrimination, Harassment, and Retaliation

All complaints or information about discrimination, harassment, or retaliation will be investigated, whether that information was reported in verbal or written form. An investigation of any

complaint, information, or knowledge of suspected discrimination, harassment, or retaliation will be prompt, thorough, and started and completed as soon as possible. The investigation will be kept confidential to the extent possible. All individuals involved, including those making a claim, witnesses, and alleged harassers deserve a fair and impartial investigation.

It is a fundamental responsibility of RSC faculty members and other employees to abide by and act in accord with RSC policy. RSC faculty members, other employees, and students may be required to cooperate in an investigation of suspected discrimination or prohibited harassment under this Policy as needed. Failure of an RSC faculty member or other employee to cooperate with an investigation under this Policy may lead to disciplinary action, up to and including termination or dismissal from RSC. RSC faculty members, other employees, and students who participate in an investigation will not be retaliated against. RSC will take disciplinary action against anyone engaging in retaliation against employees or students who file complaints, support another's complaint, or participate in harassment investigations.

RSC recognizes that participating in a harassment investigation can be uncomfortable and has the potential to retraumatize an employee or student. Those receiving claims and leading investigations will handle complaints and questions with sensitivity toward those participating.

While the process may vary from case to case, investigations will be done in accordance with the following steps.

1. Intake with the Title IX Coordinator/EEO Specialist or designee

- When RSC becomes aware that discrimination or prohibited harassment may exist, the complaint will be referred to the Title IX Coordinator/EEO Specialist or designee.
- The Title IX Coordinator/EEO Specialist or designee contact the complainant (whether that is the alleged victim, the individual who filed an incident report, or an RSC representative).
- The Title IX Coordinator/EEO Specialist or designee will offer the complainant an opportunity to meet with the Title IX Coordinator/EEO Specialist to discuss the complaint.
- The Title IX Coordinator/EEO Specialist will offer interim measures to end or limit contact between the complainant or accuser and the accused. Interim measures may include: support services (victim advocacy, housing assistance, academic support, counseling, health and mental health services, legal assistance); changing work assignments and situations (for employees or student employees); changing living arrangements, course schedules, assignments, or test schedules (for students); providing increased monitoring, supervision, or security; and providing an escort. No complainant is required to take advantage of these interim measures, but RSC provides them in an effort to offer help and support. Such interim measures can be requested by contacting the Title IX Coordinator/EEO Specialist.
- The Title IX Coordinator/EEO Specialist will then make an initial assessment regarding (1) the validity of the complaint (e.g., does it contain erroneous information, failure to state

a claim, mistaken identity, etc.); (2) whether the complaint falls within the scope of this Policy; and (3) whether the complaint must be handled under RSC's Title IX Grievance Procedure or Sexual Offense Policy, rather than this Policy.

- If the alleged conduct may constitute sexual harassment under Title IX, the Title IX Coordinator/EEO Specialist will inform the complainant of their right to file a Formal Complaint under the [Title IX Grievance Procedure](#). If a Formal Complaint is filed, the Title IX Grievance Procedure will apply, and this Complaint, Investigation, and Disciplinary Procedure **DOES NOT** apply. However, if the Formal Title IX Complaint is dismissed, RSC may still choose to investigate the alleged discrimination or harassment under this policy, if RSC determines that the alleged discrimination or harassment may potentially violate this policy.
- If a complaint alleges conduct that could constitute a Sexual Offense, as defined under the [Sexual Offense Policy](#), but no Title IX Formal Complaint has been filed, the Investigation and Disciplinary Procedures for Sexual Offense Cases Handled Outside of the Title IX Grievance Procedure will apply, and this Complaint, Investigation, and Disciplinary Procedure **DOES NOT** apply.¹ However, if the Sexual Offense investigation is dismissed, RSC may still choose to investigate the alleged discrimination or harassment under this policy, if RSC determines that the alleged discrimination or harassment may potentially violate this policy. Even if an employee or student victim chooses not to file a complaint with RSC, if RSC knows, or reasonably should know, about a suspected incident of discrimination or harassment, RSC will promptly investigate to determine what occurred and then take appropriate steps to resolve the situation.
- Unless the complaint is determined to be invalid, falls within the scope of RSC's Title IX Grievance Procedure or Sexual Offense Policy, the Title IX Coordinator/EEO Specialist, or their designee (who must be trained in discrimination and harassment, and this Policy), will promptly conduct a complete, thorough, and impartial investigation under this Policy.
- If the Title IX Coordinator/EEO Specialist or their adequately trained designee is involved in the alleged discrimination or harassment, the President will be responsible for choosing an adequately trained designee to conduct the investigation. If it would be inappropriate for the Title IX Coordinator/EEO Specialist or President to choose an adequately trained designee to conduct the investigation, then the Chair of the Board of Trustees will make this designation.

2. *Consent to Investigate*

- If the Title IX Coordinator/EEO Specialist or designee determines an investigation is required, the Title IX Coordinator/EEO Specialist or designee may seek consent from reporting individuals *prior* to conducting an investigation.
- If a reporting individual does not consent to the request to initiate an investigation and/or subsequently withdraws their complaint, the Title IX Coordinator/EEO Specialist or

¹ College employees who learn of alleged discrimination or prohibited harassment as a result of privileged communications with a student (e.g., through a counseling relationship) are exempted from this requirement.

designee will determine, in their sole and complete discretion, whether to proceed with an investigation by weighing the complainant's request against RSC's obligation to provide a safe, nondiscriminatory environment for all members of its community. The Title IX Coordinator/EEO Specialist's or designee's decision to proceed with an investigation under this Policy is not subject to challenge.

- Even if an employee or student victim never files a complaint with RSC, if RSC knows, or reasonably should know, about a suspected incident of discrimination or prohibited harassment, the Title IX Coordinator/EEO Specialist or designee may choose to investigate the incident in the Title IX Coordinator/EEO Specialist's discretion.

3. Informal Resolution

Parties who do not wish to proceed with an investigation and instead seek RSC's assistance to resolve allegations of discrimination and harassment, may elect to proceed with an informal resolution process. Informal resolution options include but are not limited to administrative resolution and mediation. Informal resolution is not an option to resolve allegations that an employee harassed a student.

The parties may elect to enter RSC's informal resolution process at any time after a complaint is submitted. No party may be required to participate in informal resolution, and RSC may never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution. The parties may elect to leave the informal resolution process at any point until the informal resolution process is concluded. If a party elects to leave the informal resolution process, RSC may choose to commence or resume an investigation.

4. Investigation Process

The standard of evidence used to evaluate a report of sexual harassment or discrimination is a "preponderance of the evidence." Under this standard, a determination must be made on the basis of whether it is more likely than not that the accused student or employee violated this Policy.

In investigating the complaint, the Title IX Coordinator/EEO Specialist, or designee, shall:

1. Conduct a prompt review of the allegations, assess appropriate scope of the investigation, and take any interim actions (for example, instructing the individual(s) about whom the complaint was made to refrain from communications with the individual(s) who reported the harassment), as appropriate.
2. If the complaint is verbal, request that the individual complete the complaint form in writing. If the person reporting prefers not to fill out the form, prepare a complaint form or equivalent documentation based on the verbal reporting.
3. Request, review, and preserve all relevant documents, including but not limited to documents, e-mails, electronic communications, and phone records. The Title IX

Coordinator/EEO Specialist, or designee will consider and implement appropriate document request, review, and preservation measures, including for electronic communications;

4. Provide a Notice of Allegations to the complainant and the respondent. Such notice will occur as soon as practicable after RSC receives a complaint, if there are no extenuating circumstances. The notice will include information regarding the informal resolution process discussed above.
5. Discuss the allegations in the complaint with the accuser and accused at separate meetings, and provide the accuser and accused with equal opportunities to identify witnesses and present evidence supporting their respective positions at these meetings.
6. Provide the accuser and the accused with the same opportunities for a non-attorney support person or non-attorney advisor of their choice throughout the process, including any meeting, conference, hearing, or other procedural action.
7. Interview all parties involved, including any identified or known non-party witness(es).
8. Create a written report of the investigation which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported;
 - A preponderance of the evidence determination for each allegation of discrimination/harassment; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
9. Keep the written documentation and associated documents in a secure and confidential location.
10. Promptly notify the individual(s) who reported the harassment and the individual(s) about whom the complaint was made that the investigation has been completed and implement any corrective actions identified in the written document; and, if the accused is an employee, notify the senior officer for the unit in which the accused is employed (or the President if the accused is a senior officer), or, if the accused is a student, the Vice President for Student Life. The parties will be informed, in writing, of the outcome, including the finding, the sanctions (if any) and the rationale therefore. Delivery of this outcome will not be delayed to either party, and should occur as nearly simultaneously as possible, without unnecessarily bringing those in conflict into close proximity to each other. All parties will be informed of their potential rights to exercise a request for appeal, where applicable.

11. Inform the individual(s) who reported of the right to file a complaint or charge externally.

The time necessary to complete an investigation will vary depending upon the facts of a particular case. In most cases, investigations will be completed within a reasonably prompt manner, and no longer than thirty (30) business days of the Title IX Coordinator/EEO Specialist's or designee's receipt of a complaint. Provided, however, that the investigation process may be extended for good reason, including but not limited to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

5. Following the Investigation

RSC takes complaints of discrimination and prohibited harassment with the greatest seriousness. For that reason, if, following the investigation, the Title IX Coordinator/EEO Specialist or other trained investigator concludes that it is more likely than not that the accused student or employee violated this Policy, RSC will pursue strong disciplinary action.

If the Title IX Coordinator/EEO Specialist or other trained investigator concludes it is more likely than not the accused student or employee violated the Policy, the Title IX Coordinator/EEO Specialist or other trained investigator will refer the matter to the Director of Human Resources (for employees other than faculty), the Provost (for faculty), or the Vice President for Student Life (for students) to determine whether to pursue disciplinary sanctions, within five (5) business days of the investigator's determination.

- Further information regarding internal disciplinary proceedings for students can be found in the Student Code of Accountability. Student disciplinary sanctions for a violation(s) of this Policy may include but are not limited to: verbal warning, written reprimand, probation, restrictions, suspension and expulsion.
- Further information regarding internal disciplinary proceedings for employees other than faculty can be found in the Employee Handbook and/or in any applicable collective bargaining agreement with RSC. The HR Director shall determine appropriate disciplinary sanctions for employees, subject to the terms of the Employee Handbook and any applicable collective bargaining agreement. Employee disciplinary sanctions for a violation(s) of this Policy may include but are not limited to: verbal warning, written reprimand, suspension without pay, and termination.
- Further information regarding internal disciplinary proceedings for faculty members can be found in the Faculty Handbook. The Provost shall determine appropriate disciplinary sanctions for all faculty, subject to the terms of the Faculty Manual. Faculty disciplinary sanctions for a violation(s) of this Policy may include but are not limited to: verbal warning, written reprimand, suspension without pay, and termination.

Internal disciplinary proceedings for cases of harassment and discrimination are fair and impartial, include timely notice of meetings and timely and equal access to information and evidence that

will be used, and are conducted by unbiased decision makers who have no conflict of interest. The proceedings are completed within a reasonably prompt, designated timeframe.

Following any internal disciplinary proceeding for cases of harassment and discrimination, the complainant or accuser and accused will be provided with simultaneous written notice of the result of the proceeding, including any sanctions imposed that relate directly to the complainant or accuser, and the rationale for the result and complainant or accuser-related sanctions.

If the investigation reveals that discrimination and/or prohibited harassment did occur, RSC will take all appropriate remedial measures necessary to end such conduct, prevent any such future conduct, and correct any personnel or academic decisions made which are related to the prohibited conduct. Remedies may include, but are not limited to, continuing or commencing any of the above-listed “interim measures.” These remedies are separate from, and in addition to, any interim measures that may have been provided prior to the conclusion of the investigation. Such measures can be requested by a complainant or accuser, by contacting the Director of Human Resources (for employees) or the Vice President of Student Life (for students).

Engaging in discrimination, prohibited harassment, or retaliation may also lead to civil and/or criminal action under state or federal law. Any employee who, in violation of this Policy, engages in discrimination, prohibited harassment or retaliation, is acting outside the scope of his or her employment and may be personally liable for such actions and their consequences. In the event legal proceedings are commenced against such an employee, RSC may decline to provide legal, financial or other assistance.

6. Appeal Process

RSC has adopted an internal appeals process for the prompt and equitable resolution of disagreements with the outcome RSC’s investigation of complaints of discrimination and prohibited harassment. In addition, recourse can be sought through the external avenues discussed below, under Legal Protections and External Remedies.

Any party who disagrees with the outcome of RSC’s investigation under this Policy may file an appeal in writing with the Vice President for Student Life (for students), the Director of Human Resources (for non-faculty employees), or the Provost (for faculty employees) within two (2) business days of the date of the decision from the Title IX Coordinator/EEO Official or designee, if the appeal meets one of the following grounds:

- A procedural error occurred that significantly impacted the outcome of the hearing
- New evidence, unavailable during the original hearing or investigation, could substantially impact the original finding or sanction (a summary of this new evidence and its potential impact must be included); or
- The sanctions imposed are substantially disproportionate to the severity of the violation.

All appeals and responses will be forwarded in writing to the Vice President for Student Life (for students), the Director of Human Resources (for non-faculty employees), or the Provost (for faculty employees) for initial review to determine if the appeal meets one or more of the grounds for appeal and is timely. If the Vice President for Student Life/Director of Human Resources/Provost finds that the appeal is not timely or substantively eligible, the original finding and sanction will stand and the decision is final. If the Vice President for Student Life/Director of Human Resources/Provost finds that the appeal is appropriate, the documentation from the investigation is forwarded to the Appellate Board (for students) or the Peer Review Panel (for employees) for consideration. The party requesting appeal must show error as the original finding and sanction are presumed to have been decided reasonably and appropriately.

The Appellate Board/Peer Review Panel will render a decision on whether the outcome of investigation is reasonable within ten (10) business days of the receipt of the appeal. Provided, however, that the appeal process may be extended for good reason, including but not limited to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

Unless otherwise required by law, RSC will protect all information obtained about students during the course of the disciplinary process from public release, until the Appellate Board/Peer Review Panel makes a final determination.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by RSC, but is also prohibited by state, federal, and, where applicable, local law.

The internal process outlined in the policy above is one way for employees, students, and covered individuals to report sexual harassment. Employees, students and covered individuals may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may also seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 *et seq.*, applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status, and students. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints of sexual harassment may be filed with DHR any time within **three (3) years** of the sexual harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within **three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to RSC does not extend your time to file with DHR or in court. The three (3) years is counted from the date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that harassment or discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If harassment or discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov .

Go to dhr.ny.gov/complaint for more information about filing a complaint with DHR. The website has a digital complaint process that can be completed on your computer or mobile device from start to finish. The website has a complaint form that can be downloaded, filled out, and mailed to DHR as well as a form that can be submitted online. The website also contains contact information for DHR's regional offices across New York State.

Call the DHR sexual harassment hotline at 1(800) HARASS3 for more information about filing a sexual harassment complaint. This hotline can also provide you with a referral to a volunteer attorney experienced in sexual harassment matters who can provide you with limited free assistance and counsel over the phone.

The United States Equal Employment Opportunity Commission:

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e *et seq.*). An employee can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred. If the EEOC determines that the law may have been violated, the EEOC will try to reach a voluntary settlement with the employer. If the EEOC cannot reach a settlement, the EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit. The EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC

closes the charge, is unable to determine if federal employment discrimination laws may have been violated, or believes that unlawful discrimination occurred by does not file a lawsuit.

Employees may obtain relief in mediation, settlement or conciliation. In addition, federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an employee filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in the City of Albany may file complaints of sexual harassment with the City of Albany Commission on Human Rights. Contact the Commission at City Hall, Room 301, 24 Eagle Street, Albany, NY 12207; call (518) 434-5296; or visit <https://www.albanyny.gov/Government/Departments/HumanResources/CommissiononHumanRights.aspx>.

Office of Civil Rights

In addition, an employee or student who believes he or she is the victim of discrimination or harassment may file a complaint with the United States Department of Education’s Office for Civil Rights (“OCR”). Complaints may be filed to OCR by:

- Mail or Facsimile: Complainants may mail or send a complaint by facsimile a letter to:
U.S. Department of Education
Financial Square
32 Old Slip, 25th Floor, New York, NY 10005
Telephone: 646-428-3906 | Fax: 646-428-3904
- E-mail: Complainants may file a complaint to the following e-mail address: ocr@ed.gov.
- Online: Complainants may file a complaint with OCR using OCR’s electronic complaint form at the following website: <https://ocrcas.ed.gov/>.

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal charges are encouraged to contact their local police department.

Conclusion

The policy outlined above is aimed at providing employees, students, and covered individuals an understanding of their right to a discrimination and harassment free workplace. All employees should feel safe at work. Though the focus of this policy is on sexual harassment and gender discrimination, the New York State Human Rights law protects against discrimination in several protected classes including sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, military status, disability, pre-disposing genetic characteristics, familial status, marital status, criminal history, or domestic violence survivor status. The prevention policies outlined above should be considered applicable to all protected classes.

Updated: August 14, 2023

Exhibit A
DISCRIMINATION/HARASSMENT COMPLAINT FORM

Name of Complainant: _____

(please print)

Date Filed: _____

Home Address: _____

(Street)

(City) (State) (Zip Code)

Home Telephone: _____ - _____ - _____

(Area Code)

Business or College Address:

(Business or College Name)

(Room Number or Department)

(Street Address)

(City) (State) (Zip Code)

Business Telephone: _____ - _____ - _____

(Area Code)

Position Held: _____

SUPERVISORY INFORMATION (If applicable):

Immediate Supervisor's Name: _____

Title: _____

Work Phone: _____ **Work Address:** _____

Basis for filing complaint of discrimination: Circle appropriate classification(s)

RACE

ACTUAL OR PERCEIVED NATIONAL ORIGIN

COLOR

MILITARY OR VETERAN STATUS

SEXUAL ORIENTATION

GENDER CHARACTERISTICS AND EXPRESSION

MARITAL STATUS

RETALIATION

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

Person assisting complainant (Optional):

Name: _____ **Title:** _____

Organization:

Address: _____
(Street) (City) (State) (Zip Code)

Telephone: _____ - _____ - _____
(Area Code)

Relief Sought by Complainant:

Signature: _____ **Date:** _____