

# 2017-2018

---

## **Standards of Student Conduct:** *PROCESSES & POLICIES*

---



UNIVERSITY *of*  
ROCHESTER

CENTER FOR STUDENT  
CONFLICT MANAGEMENT

---

Office of the Dean of Students

STANDARDS OF STUDENT CONDUCT  
Processes and Policies

Table of Contents

**THE UNIVERSITY OF ROCHESTER CONDUCT SYSTEM**

Statement Of Communal Principles.....	3
Student Code Of Conduct.....	5
Division Of Jurisdiction And Responsibility .....	7
The University And The Public Law .....	8
Fundamental Fairness In Hearing Process For Non-Sexual Misconduct Violations.....	10
Fundamental Fairness In Hearing Process For Non-Sexual Misconduct Group Violations .....	12
Appeals .....	13
Responses To Misconduct.....	14
Conduct Records .....	16
Interim Actions And Other Restrictions .....	17

**POLICIES & PROCEDURES**

Academic Misconduct .....	18
Active Avoidance Orders.....	18
Alcohol And Other Drugs Policy.....	19
Athletics Code Of Conduct Statement .....	26
Complicity.....	26
Eastman School Of Music Statement .....	26
Weapons Policy .....	26
Fire Safety Policies .....	27
Fraternity And Sorority Life Statement .....	27
Group Responsibility Policy .....	27
Student Policy Against Discrimination And Harassment.....	28
Involuntary Leaves Of Absence .....	35
Parking Policies .....	36
Residential Life And Dining Services Policies.....	36
Education Abroad Code Of Conduct Statement .....	36
University Tobacco Policy.....	36
Information Technology Policies.....	37
Student Sexual Misconduct Policy.....	39
Fundamental Fairness In Hearing Process For Sexual Misconduct Violations.....	48
Resources.....	56
Questions About Policies .....	58
Policy Changes And Updates .....	58
Additional Regulations .....	58

This guide is available online at <http://www.rochester.edu/college/cscm/conduct.html>

## **THE UNIVERSITY OF ROCHESTER CONDUCT SYSTEM**

### **STATEMENT OF COMMUNAL PRINCIPLES**

#### **Purpose**

The University of Rochester is an institution dedicated to the discovery of knowledge through research and education. The College and Eastman School of Music, in particular, are communities of engaged people who come together in residential learning environments to learn, to teach, or to work in service to these endeavors. To encourage the participation and involvement of all members of The College and Eastman, we have set forward several fundamental interrelated principles that are the necessary conditions to learning. It is these principles that we will use to develop systems and processes that safeguard the special nature of The College and Eastman communities and to ensure the involvement and inclusion of all its members.

#### **Fairness**

The principles of fairness and openness are fundamental to the operations of this community- its processes for decision-making, problem solving, and doing the work of the institution. Every person has the right to, and should expect, fair treatment according to openly-stated and clearly-articulated expectations, policies, and procedures and in accordance with the fundamental rights and privileges of a free society. Every person is encouraged in parallel ways to use fair and open methods of communication and action, including wherever possible, those provided by existing institutional channels, in voicing concerns and seeking solutions to problems.

#### **Freedom**

The freedom of all people in a community of learning to ask questions and to seek answers is essential and actively encouraged. Each person has the right to learn, teach, and work – to express themselves through their ideas and activities – without threat to his or her education or career progress or to that of others. Freedom of expression of ideas and action is not to be limited by acts of intimidation, political or ideological oppression, abuse of authority, or threat of physical harm and well-being.

#### **Honesty**

Honesty and personal integrity are fundamental to all assumptions of participation in a community dedicated to the advancement of knowledge. Honesty advances our efforts as well as strengthens the interrelationships on which community is built. On the other hand, dishonesty undermines the search for truth and undermines the bonds between the persons who live, study, and work here. It further damages community by wasting the energy and educational opportunities of all involved.

#### **Inclusion**

Our community welcomes, encourages, and supports individuals who desire to contribute to and benefit from the institution's missions. Members of the University's community come from different geographical areas, represent differences in ethnicities, religious beliefs, values, and points of view; they may be physically different, have different intellectual interests, or have different abilities. We not only welcome such differences in members of our community, but we also actively seek to include them in all aspects of the institution's operations.

#### **Respect**

Respect for the basic dignity of self and others is essential to this community. Every person has the right to be treated with respect, regardless of the many differences that distinguish individuals and groups. Respect involves showing regard for other's well-being and safety as well as for their personal property, personal space, and for their living, learning, and working activities. In addition, members of this community also have a responsibility to respect the properties, and functions of the institution.

#### **Responsibility**

Freedom and responsibility are two sides of the same coin. To uphold this kind of freedom of expression and action in the public arena, each person has the responsibility to own his or her ideas and actions as well as express them in ways that do not limit or threaten others' freedom to learn, teach and work. This means that ideas and actions are neither anonymous nor isolated. To act or express one's ideas openly and in a responsible manner enhances the learning and growth of all. On the other hand, to act or express one's ideas in an irresponsible manner impinges on other's rights and freedom to learn and grow.

**Violations of our Communal Principles:** Those whose behavior violates our communal principles and our Student Code of Conduct will be subject to discipline as set forth in the Student Code of Conduct. We recognize that not all behavior that violates our communal principles will also violate our Student Code of Conduct because in many cases, such behavior may otherwise be protected speech or conduct deserving a response that is not disciplinary. In those cases, we will support those who are harmed and educate those who cause that harm. More generally we will seek to make our community one in which all members can identify, comprehend and avoid bias, stereotypes or prejudices. More information about our efforts to establish such a community may be found at <http://www.rochester.edu/college/bic/>.

## Student Code of Conduct

Students are expected to conduct themselves in a way that respects the cooperative standards of our community and accords with the University's educational mission. This includes obeying federal, state and local laws as well as the policies listed below. Not knowing or understanding these standards and policies is not a defense or excuse. Possible violations of University standards or policies include:

1. Disorderly conduct is any actual or attempted conduct that threatens the health or safety of oneself or others. This includes, but is not limited to, fighting, threats, assault, or harassment. Harassment consists of any unwanted conduct that is intended to cause, or could reasonably be expected to cause, an individual or group to feel intimidated, demeaned or abused, or to fear or have concern for their personal safety—where this conduct could reasonably be regarded as so severe, persistent, or pervasive as to disrupt the living, learning, and/or working environment of the individual or group.
2. Possession, distribution or use of weapons of any kind, including but not limited to firearms, BB or pellet guns, knives, bows and arrows, stun guns, paintball guns, and anything else that counts as a weapon as defined in the [Weapons Policy](#).
3. Possession, distribution or use of any other items presenting an actual or potential threat to the safety and well-being of others (including combustible materials or other items in violation of the Fire Safety Code, available at [http://www.safety.rochester.edu/homepages/fsu\\_homepage.html](http://www.safety.rochester.edu/homepages/fsu_homepage.html)), or tampering with fire safety apparatus or operating it for any purpose other than its intended use.
4. Any act that constitutes harassment or discrimination under federal or state laws or regulations or any violation of our [Sexual Misconduct Policy](#) or [Policy Against Discrimination and Harassment](#).
5. Any actions (whether on or off University premises) that relate to joining, or ongoing membership in, any group and that intentionally or recklessly create a situation that could reasonably be expected to cause physical or psychological discomfort, embarrassment, or degradation, regardless of a student's willingness to participate in the activity, as described in the [University Hazing Policy](#).
6. Any alcohol-related violation of the University Alcohol and Other Drugs Policy ([Alcohol and Other Drugs Policy](#)).
7. Any (non-alcohol) drug-related violation of the University Alcohol and Other Drugs Policy ([Alcohol and Other Drugs Policy](#)).
8. Actual or Attempted: (a) theft of the property of the University or others, and/or (b) damage to the property of the University or others.
9. Unauthorized use or misuse of or entry into property or facilities.
10. Misuse of University computers and computing systems, including copyright infringement violations, as specified in the [Computer Use Policies](#).

11. Fraud; misrepresentation; forgery; falsification or misuse of documents, records or identification cards; or intentionally providing incomplete information in connection with an investigation into alleged policy infractions.
12. Non-cooperation with any part of the process related to addressing student misconduct, including dishonesty or failure to comply with a directive of a conduct officer or body.
13. Failure to comply with any reasonable request of a University official acting within the scope of his/her/their duties.
14. Any act of intimidation or retaliation intended or likely to dissuade a reasonable person from making a complaint, furnishing information, or participating in a conduct process.
15. Complicity in misconduct. Students are expected to disengage themselves from all acts of misconduct, and are expected to report serious code violations to appropriate authorities.
16. Failure to take reasonable steps to prevent a guest from violating the code of conduct.
17. Behavior that negatively impacts the normal pursuit of academic, administrative, extracurricular or personal activities, or that violates any University policies or rules.

\*

\*

\*

\*\*If a weapon is discovered, Public Safety staff will confiscate it and turn the item over to the appropriate law enforcement agency. In cases where the term "weapon" is subject to interpretation, students are expected to comply fully with Public Safety staff directives. Possession of weapons may result in arrest, and suspension or expulsion from the University.

The University of Rochester views the conduct system as only one tool to address student behavior and concerns. The Center for Student Conflict Management and the Office of the Dean of Students as a whole seeks to include a variety of individuals in the University community in assisting students in the pursuit of positive growth and a fulfilling college experience.

## **DIVISION OF JURISDICTION AND RESPONSIBILITY**

- A. Authority to hold students<sup>1</sup> and organizations<sup>2</sup> accountable through the conduct system is vested in the president of the University by the University's bylaws. This authority has been delegated through the dean of the college and dean of students to the Assistant Dean of Students and Director of the Center for Student Conflict Management, also referred to as the judicial officer, in the Office of the Dean of Students for all non-academic conduct incidents involving both undergraduate and graduate students. The judicial officer may designate another staff member to perform the duties of the judicial officer at any time. (Throughout this document the term “judicial officer” should be interpreted to mean judicial officer or designee.) The judicial officer may delegate the responsibility of adjudicating non-academic conduct incidents to conduct officers or hearing boards.. These conduct officers/hearing boards determine whether an alleged violation of the standards of the University community occurred by the preponderance of the evidence. If the officer/board finds that a violation did occur it further determines the response which is most likely to benefit both the individual student and the larger University community. As the University official responsible for conduct, the judicial officer receives the recommendation of these conduct officers/boards on behalf of the University, accepts or modifies the recommendation, and formally implements University disciplinary action.
- B. Jurisdiction over cases of academic misconduct involving undergraduate students has been delegated to the College Board on Academic Honesty.
- C. The fundamental criterion for deciding whether a matter is academic or non-academic is whether the student was acting in a scholarly or professional capacity. When the incident involves a student acting in their role as a student, teaching assistant, or expert in their discipline, then the matter is an academic matter. When the incident involves a student acting as an individual independent of these roles, then the matter is non-academic. The available hearing procedures are not intended to be mutually exclusive: it is possible that a student could be subject to both academic and non-academic discipline for the same misconduct.
- D. Discretionary responsibility for handling extreme cases, where such action is essential for maintaining the orderly processes of the University, is retained by the President or a delegate.
- E. Other officers and agents of the University may promulgate rules and regulations applicable to students in particular situations independent of these procedures and guidelines. These officers and agencies shall report serious violations of such rules and regulations to the judicial officer.

### **Conduct Officers/Bodies**

There are five different conduct bodies available for resolving alleged violations of the standards of the University community. They are as follows:

- **Residential Life Staff:** Residential Life Resident Directors, Assistant Directors, and Directors process most Responsible Options. These professional staff members resolve, whenever possible, alleged violations of policies occurring in their respective living areas. They are authorized to issue the full range of responses up to, but not including, suspension from the University.
- **Administrative Conduct Officer:** An administrative conduct officer, typically the judicial officer, may conduct disciplinary hearings without a board or council. Administrative conduct officers are authorized to issue the full range of University responses.
- **All Campus Judicial Council:** The ACJC is made up of student justices including a chief and deputy chief. ACJC works in conjunction with, and is supported by, the Center for Student Conflict Management. This hearing body has authority to recommend the full range of University responses. ACJC is for undergraduate students only.
- **Administrative Conduct Board:** The Administrative Conduct Board is normally chaired by the judicial officer along with at least one additional University Administrator. This conduct board is authorized to recommend the full range of University responses.

---

<sup>1</sup> For the purposes of this document "students" are any person or group who is or was in attendance during an academic period in which misconduct occurred or between academic periods for continuing students.

<sup>2</sup> Official campus recognition or funding is not required in order to be considered an “organization” for the purposes of this document.

- **Sexual Misconduct Hearing Board:** The Sexual Misconduct Hearing Board is chaired by the judicial officer along with at least one additional University administrators who have has received annual training on issues related to acts of sexual or gender-based misconduct, This conduct board is authorized to recommend the full range of University responses. For more information, go to [Student Sexual Misconduct Policy](#).

### **Responsible Option**

A student who may have violated the standards of our community may be able to accept responsibility for the policy violation without participating in a conduct hearing. Based on the nature and circumstances of the case, the judicial officer in their sole discretion, can either serve as the conduct officer or refer the matter to another conduct officer or body (as described below) for resolution. If the respondent accepts responsibility, the respondent is required to notify the designated conduct officer that they plan to pursue this path within two (2) business days of their initial meeting. Failure to do so will result in a referral to the Center for Student Conflict Management. In all matters, the judicial officer has full discretion to arrange a hearing when they determine that process may be beneficial to the individual student or the larger University community.

### **Referral to Restorative Circle**

In some circumstances students who have engaged in behavior that violates our policies and regulations may be given the option of participating in a restorative circle to resolve the incident at the discretion of the judicial officer. Students accused of sexual assault may not use a restorative circle to address the issue unless the circle follows a hearing on the issue.

Restorative circles provide parties involved in a dispute with an opportunity to discuss the issue(s) that lead to the conflict in a safe, non-adversarial environment. Trained facilitators assist the participants in communicating about the dispute and help the participants to create an agreement regarding how to repair the harm that was caused.

Practically, a restorative circle is a gathering of individuals who are involved (directly or indirectly) in a dispute with the purpose of talking about what happened and making a plan for resolving the issue. The circle typically meets twice, once to discuss the issues that lead to the conflict and once again to review the agreement that was developed during the first circle.

For more information about the Restorative Circles Process please contact the Center for Student Conflict Management at [conflict.management@rochester.edu](mailto:conflict.management@rochester.edu) or call 585-275-4085.

## **THE UNIVERSITY AND THE PUBLIC LAW**

- A. The University is not a sanctuary from public law and does not promote or condone unlawful behavior. The University cooperates with law enforcement authorities in a manner consistent with its legal duties and the interests of the University community.
- B. Students under prosecution for violation of public law may also be subject to University conduct proceedings, which are independent of those under public law. The University may take prompt action under its own procedures regardless of whether the public officials have disposed of the case or what disposition they make.
- C. Students may be subject to the University conduct system for allegations of misconduct that occurs on University property, or that occurs off campus if such off campus conduct is associated with a University activity, or raises considerable concerns that the individual or group poses a threat to the safety or welfare of the University community.



## THE CONDUCT PROCESS

Please Note: The conduct process, including fundamental fairness principles and the appeal process, is different for cases of alleged Sexual Misconduct. The sections that follow, up to the heading “Basic Rights and Expectations,” do not apply to Sexual Misconduct allegations. Please consult the [Sexual Misconduct policy](#) for specifics.

Any member of the University of Rochester or surrounding community (students, staff, faculty, security, local law enforcement, local citizens/groups, others, etc.) may report an alleged nonacademic violation of the Code of Conduct by a student. Individuals who wish to file a report, or who have questions about policies or procedures, should contact the appropriate office below:

- [Center for Student Conflict Management](#) – all University of Rochester students
- [Office of Student Life](#) – Eastman School of Music
- [Department of Public Safety](#)- all University of Rochester students
- [Office of Residential Life](#) – River Campus (Directors, Associate Directors, Assistant Directors, Resident Directors, Graduate Head Residents, Community Advisors, Resident Advisors)

The judicial officer will review the incident report or "complaint" and relevant documentation in order to determine whether or not there is sufficient cause to initiate the conduct process or pursue alternative means for resolution. Possible resolution options are as follows:

- A. Dismiss the complaint.
- B. Decide that the complaint can be processed through informal means of resolution, such as mediation. For more information about mediation please contact the Center for Student Conflict Management at 585-275-4085.
- C. Defer the case pending dismissal. Deferment periods are generally not expected to last more than one semester.
- D. Decide that the complaint contains grounds to reasonably believe that the University's policies, rules, or regulations have been violated and charge the student, on behalf of the University, accordingly. If this action is taken, several procedures are possible, as explained below.

## ORDER OF CONDUCT PROCESS FOR INDIVIDUAL STUDENTS

1. Initial Meeting(s): When a student is reported to have engaged in behavior that may be detrimental to the University community a conduct officer will reach out to the student and schedule an initial meeting. During this meeting the student will have the opportunity to read the report and share his/her/their perspective about what happened.
  - a. Typically, during this meeting the conduct officer will work with the student to determine whether or not the student accepts responsibility for the possible policy violation. If the student accepts responsibility, the matter can be resolved at that time. If a student needs to participate in a formal conduct hearing, a pre-hearing conference meeting can be scheduled.
2. Pre-Hearing Conference Meeting: During a pre-hearing conference meeting the conduct officer meets with the respondent(s) and discusses the hearing process as outlined in the fundamental fairness section of this document on page 7.
3. Hearing: The purpose of a formal conduct hearing is to determine the truth about a respondent's alleged misconduct. There are two forums for a hearing of non-Sexual Misconduct Violations (a) an Administrative Hearing and (b) a hearing with the All-Campus Judicial Council, Through an objective and fair process guided by the fundamental fairness standards below, the judicial officer determines (a) whether, based on a preponderance of evidence (whether it is more likely than not), a violation occurred and (b) appropriate sanction(s) for a finding of responsibility.
4. Post-Hearing Meeting: After the hearing the judicial officer will communicate with the respondent to discuss the outcome of the hearing and share information about how to submit an appeal if one is warranted.

## FUNDAMENTAL FAIRNESS IN HEARING PROCESS FOR NON-SEXUAL MISCONDUCT VIOLATIONS

A student will not be subject to official action for non-academic misconduct unless a. The student has had a conduct hearing; OR b. The student has waived the right to a hearing through a responsible option; OR c. The judicial officer, has taken interim action (interim response pending a hearing); OR d. Discretionary responsibility for resolving the matter has been retained by the President or a delegate.

The fundamental fairness points outlined below apply to all students who will participate in a hearing to determine whether they have violated the standards of our community. Students who are alleged to have violated the standards of our community are referred to as "respondents" in our conduct hearing process.

Fundamental fairness for conduct hearings at the University consists of the following standards:

1. All charges must be in writing and presented to the respondent and victim at the time of notification of the hearing.
2. Charges shall be reasonably specific as to the nature, time, and place of the alleged infraction.
3. The respondent shall be informed of his/her/their rights in his/her/their preliminary meeting with the judicial officer.
4. The respondent shall be afforded two (2) days to indicate a preference for which kind of hearing (e.g., administrative or ACJC) he/she/they wish to have. This two-day limit shall also be the term during which offers for a Responsible Option—if offered—shall be valid. Final determination of hearing type shall be made by the judicial officer.
5. The respondent shall be afforded at least seven days' notice of the hearing in writing.
6. Hearings are normally scheduled within 7 to 14 days after the hearing forum has been selected; however, the judicial officer may extend or shorten time lines to accommodate academic calendar or other extenuating circumstances.
7. The respondent shall have the right to be accompanied by an advisor who may confer with and assist the student. The advisor must be a member of the University community who is not an attorney; except when the respondent is, at the time of the hearing, facing criminal charges, or a credible threat of such charges being brought for the same incident, he/she/they can have an attorney serve as their advisor. The advisor or attorney may not speak on behalf of the student as an advocate, question witnesses, object, or participate in any way beyond advising the student. The judicial officer has the right to remove any advisor or attorney who violates this policy and to proceed with the hearing in his/her/their absence in such event. Requests for an adjournment to accommodate the schedule of the attorney or advisor will be at the sole discretion of the judicial officer. Names of campus community members who have indicated their willingness to serve as advisors are available from the Center for Student Conflict Management. Respondents are strongly encouraged to choose an advisor knowledgeable in the conduct process.
8. Hearings are recorded. A recording of the hearing will be available in the event of an appeal, but remains the property of the University.
9. The respondent shall have the opportunity to answer accusations and to submit the testimony of material witnesses on his/her/their own behalf. Witness statements, Public Safety reports, residential life incident reports, and depositions—scheduled with the judicial officer and respondent—shall be acceptable as documentation submitted to a board. All other documentation is subject to review by the judicial officer, prior to the time of the hearing.
10. All evidence and testimony, including the relevant Public Safety reports, the text of statements made by the respondent prior to the hearing and used at the hearing, and any physical evidence shall be presented in the presence of the respondent; however, legal rules of evidence shall not apply.
11. Relevant reports, documents and other evidence will be made available for review in the Center for Student Conflict Management prior to the hearing or may be shared electronically at the discretion of the judicial officer. These materials may not be duplicated by anyone other than the judicial officer.
12. The respondent shall have the opportunity to indirectly question (through the hearing boards/officers) all witnesses present during the hearing. This does not necessarily include the right to confront witnesses in person.
13. The respondent will be given an opportunity to make statements which will become part of the case record to be reviewed by the judicial officer and by any appeal body.
14. The respondent and all other participants are expected to cooperate during the hearing and be truthful in their testimony and responses to questions. A respondent may choose to refrain from providing testimony or answering questions; however, he/she/they may not then provide a statement on his/her/their own behalf. Depending on all the information presented, a respondent who refuses to give testimony or answer questions may nonetheless be found responsible by the conduct board/officers.
15. All findings of responsibility will be made by a preponderance of the evidence (i.e. more likely than not).
16. In hearings resolved by ACJC the findings and recommendations will be forwarded to the judicial officer. In the

event the judicial officer does not accept the findings or recommendations of ACJC, he/she/they may request further consultation and review by ACJC or may make a different finding or recommendation if warranted by the evidence presented at the hearing.

17. The judicial officer will notify the respondent of the outcome.
18. The respondent has the right to appeal a final decision in a non-academic case to the appropriate appeal body. Instructions on how to submit an appeal letter are included in the decision letter.
19. The judicial officer has discretion to modify, expand, or clarify these standards and any other aspect of the conduct process, depending on the circumstances.

## **ORDER OF CONDUCT PROCESS FOR STUDENT ORGANIZATIONS/GROUPS**

### **Violations of the Event Registration Policy**

1. First time Violations: When an organization is reported to have violated one or more aspects of the Event Registration Policy for the first time within an academic year, they should expect to receive a Letter of Warning from their campus advisor and to have all social activities suspended for a period of at least two weeks.
2. Second time Violations: When an organization is reported to have violated one or more aspects of the Event Registration Policy for the second time within an academic year, a staff member in the Center for Student Conflict Management and/or the organization's advisor will reach out to the organization's leadership, typically the president, and schedule a meeting with both the CSCM staff member and the organization's advisor. Organizations who violate the Event Registration Policy twice in an academic should expect to have all social activities suspended for at least one month.
3. Third time Violations: When an organization is reported to have violated one or more aspects of the Event Registration Policy for the third time within an academic year, the organization will be scheduled for a hearing with the All-Campus Judicial Council. Under these circumstances, the ACJC is authorized to issue a range of sanctions, and organizations should expect to have all social activities suspended for up to one year and to be required to attend educational workshops related to the incidents.

### **Violations of Other University Policies**

5. Initial Meeting(s): When an organization is reported to have engaged in behavior that may be detrimental to the University community a staff member in the Center for Student Conflict Management and/or the organization's advisor will reach out to the organization's leadership, typically the president, and schedule an initial meeting. During this meeting the representatives from the organization will have the opportunity to read the report and share their perspective about what happened.
  - b. Typically, during this meeting the conduct officer will work with the organization's representative to determine whether or not the organization accepts responsibility for the possible policy violation. If the organization accepts responsibility, the matter can be resolved at that time. If the organization needs to participate in a formal conduct hearing, a pre-hearing conference meeting can be scheduled.
6. Pre-Hearing Conference Meeting: During a pre-hearing conference meeting the conduct officer meets with the organization's representatives to discuss the hearing process as outlined in the fundamental fairness section of this document on page 7.
7. Hearing: The purpose of a formal conduct hearing is to determine the truth about the organization's alleged misconduct. Through an objective and fair process guided by the fundamental fairness standards below, a conduct officer or body (a) determines, based on the information gathered from all involved parties, whether or not a violation occurred and (b) recommends a response to the judicial officer, or designee, if the respondent is found responsible.
8. Post-Hearing Meeting: After the hearing the judicial officer, or designee, will communicate with the organization's representatives to discuss the outcome of the hearing and share information about how to submit an appeal if one is warranted.

## **FUNDAMENTAL FAIRNESS IN HEARING PROCESS FOR NON-SEXUAL MISCONDUCT GROUP VIOLATIONS**

An organization will not be subject to official action for non-academic misconduct unless a. The organization has had a conduct hearing; OR b. The organization has waived the right to a hearing through a responsible option; OR c. The judicial officer, or designee, has taken interim action (interim response pending a hearing); OR d. Discretionary responsibility for resolving the matter has been retained by the President or a delegate.

The fundamental fairness points outlined below apply to student organizations and/or groups who will participate in a hearing to determine whether they have violated the standards of our community. Organizations who are alleged to have violated the standards of our community are referred to as "responding organizations" in our conduct hearing process.

For the purposes of addressing alleged violations and the conduct hearing process, the organization's president is considered authorized to make decisions on behalf of the organization as a whole. The president is able to designate another student organization member to serve in this capacity; the Center for Student Conflict Management must be informed in writing if the president wishes to delegate this authority.

Fundamental fairness for conduct hearings at the University consists of the following standards:

1. All charges must be in writing and presented to the responding organization at the time of notification of the hearing.
2. Charges shall be reasonably specific as to the nature, time, and place of the alleged infraction.
3. The responding organization shall be informed of their rights in their preliminary meeting with the judicial officer, or designee.
4. The responding organization shall be afforded two (2) days to indicate a preference for which kind of hearing (e.g. Administrative or student) they wish to have. This two-day limit shall also be the term during which offers for a Responsible Option—if offered—shall be valid. Final determination of hearing type shall be made by the judicial officer or designee.
5. The responding organization shall be afforded at least seven days' notice of the hearing in writing.
6. Hearings are normally scheduled within 7 to 14 business days after the hearing forum has been selected; however, the judicial officer, or designee, may extend or shorten time lines to accommodate academic calendar or other extenuating circumstances.
7. The organization's president, or designee, may be accompanied by two other members of the organization during the hearing and/or any meetings related to the hearing.
8. The responding organization shall have the right to be accompanied by an advisor who may confer with and assist the organization. The advisor must be a member of the University community who is not an attorney; except when the responding organization is, at the time of the hearing, facing criminal charges, or a credible threat of such charges being brought, they can have an attorney serve as their advisor. The advisor or attorney may not speak on behalf of the organization as an advocate, question witnesses, object, or participate in any way beyond advising the organization. The judicial officer, or designee, has the right to remove any advisor or attorney who violates this policy and to proceed with the hearing in their absence in such event. Requests for an adjournment to accommodate the schedule of the attorney or advisor will be at the sole discretion of the judicial officer or designee. Names of advisors who are well informed about conduct procedures are available from the Center for Student Conflict Management. Responding organizations are strongly encouraged to choose an advisor knowledgeable in the conduct process.
9. Hearings are recorded. A recording of the hearing will be available in the event of an appeal, but remains the property of the University.
10. The responding organization shall have the opportunity to answer accusations and to submit the testimony of material witnesses on their own behalf. Witness statements, Public Safety reports, residential life incident reports, and depositions—scheduled with the judicial officer and responding organization—shall be acceptable as documentation submitted to a board. All other documentation is subject to review by the judicial officer, or designee, prior to the time of the hearing.
11. All evidence and testimony, including the relevant Public Safety reports, the text of statements made by the responding organization prior to the hearing and used at the hearing, and any physical evidence shall be presented in the presence of both responding organization; however, legal rules of evidence shall not apply.
12. Relevant reports, documents and other evidence may be reviewed by the responding organization in the Center for Student Conflict Management prior to the hearing. Copies of any such material may not, however, leave the office. In certain circumstances, the judicial officer, or designee, may choose to share the documents electronically.
13. The responding organization shall have the opportunity to indirectly question (through the hearing teams/officers) all

- witnesses present during the hearing. This does not necessarily include the right to confront witnesses in person.
14. The responding organization will be given an opportunity to make statements which will become part of the case record to be reviewed by the judicial officer, or designee, and by any dean or director considering an appeal.
  15. The responding organization and all other participants are expected to cooperate during the hearing and be truthful in their testimony and responses to questions. A responding organization may choose to refrain from providing testimony or answering questions; however, they may not then provide a statement on their own behalf. Depending on all the information presented, a responding organization who refuses to give testimony or answer questions may nonetheless be found responsible by the conduct board/officers.
  16. The conduct board/officers shall determine by a majority vote whether it is more likely than not (i.e., by a preponderance of the evidence) that the responding organization violated the standards of the University of Rochester community.
  17. The findings and recommendations of any of the conduct board/officers will be forwarded to the judicial officer, or designee. In the event the judicial officer, or designee, does not accept the findings or recommendations of a conduct board/officer, they may request further consultation and review by the conduct board/officer or may make a different finding or recommendation if warranted by the evidence presented at the hearing. The judicial officer, or designee, will notify the responding organization of the outcome through their representative.
  18. The responding organization has the right to appeal a final decision in a non-academic case to the appropriate dean/director.
  19. The judicial officer, or designee, has discretion to modify, expand, or clarify these standards and any other aspect of the conduct process, depending on the circumstances.

## **APPEALS**

### **Grounds for Appeal**

An appeal is intended to provide an opportunity to consider any previously overlooked, exceptional, or unfair circumstances pertinent to the case. It is not intended to be a rehearing of the events presented at the original hearing. The only grounds on which an appeal can be made are:

1. The response was not appropriate; or
2. New information exists that was not available at the time of the hearing and this information is sufficient to alter the decision; or
3. An error occurred during the process that is substantive enough to alter the decision.

### **Process of Appeal**

An appeal must be made in writing and sent to the Center for Student Conflict Management, [conflict.management@rochester.edu](mailto:conflict.management@rochester.edu). This letter will be the formal basis of appeal and should state the grounds on which an appeal is made and what the student or organization believes supports an appeal on those grounds. The designated appeal body may review some or all of the material from the original hearing before considering an appeal. The designated appeal body may consult with anyone they feel is pertinent to, or would be helpful in determining the appeal.

### **Effect of Appeal**

The student or organization appealing will receive a written decision from the appeal body. On appeals, the appeal body may uphold or modify the decision, or the case may be referred back to a board for a new hearing. At the discretion of the judicial officer or dean, where appropriate, all or some of the responses may be suspended pending the final decision.

## **BASIC RIGHTS AND EXPECTATION**

Students who choose to attend the University of Rochester should understand that they have certain fundamental rights and that they have committed themselves to adhering to academic and social standards which are essential to the well-being of the community. Any student charged with misconduct will be treated in accordance with the basic standards of fundamental fairness which include timely notification of charges, fair and impartial hearings, and the right of appeal. **Students are expected to respond in a timely fashion to any and all written or verbal communication, including but not limited to voice mail, electronic mail, letters, and other forms of correspondence. Failure to check for these forms of communication does not relieve students of their responsibility to reply.**

A significant goal of campus conduct proceedings is to promote the welfare of the student, making the student aware of community standards, and discouraging the student from engaging in behavior that negatively impacts the University community. Another significant goal is to protect the University community's collective interests and deter students from harming the community.

There are important differences between campus and criminal judicial proceedings. The University of Rochester's conduct process is one that is restorative and educational, seeking to support all students involved in this process. It would not be in either the University's or the student's best interest to attempt to incorporate features of the criminal justice system in the campus conduct process. Indeed, a formal and adversarial procedure might have the effect of suppressing information that, in the interest of a student's long-term development, is best to bring out.

## **RESPONSES TO MISCONDUCT**

Creating a space that allows members of the University community to live and work in a safe and respectable environment is an important component of the conduct process. A major goal of the conduct process in particular and the University in general is to teach why something is wrong as well as to prevent its repetition. This goal is often difficult to carry out, but an effort is made to create a response that will best educate the student or group involved.

### **Common Responses for Individual Students**

This list is by no means inclusive of all options open to conduct officers and boards in creating responses tailored to educate the involved students and repair harms caused to the community. In an effort to help offset the costs associated with administering programs and services associated with the disciplinary system, all students responsible for violating a policy will be charged a fee of \$50. This fee will be placed on the student's term bill.

- **Disciplinary Warning**, including an official letter of reprimand to the student stating that his/her/their behavior is in violation of University policy and may not recur.
- **Community Restitution**, which may require individuals or groups to write a letter of apology, participate in a designated service project, or give an identified community (on or off campus) a number of service hours to be completed within a specified time period. When appropriate, the individual or group may be required to devise its own community restitution plan to be approved by the judicial officer.
- **Counseling Intervention**, which may be recommended, and in some cases required, when behavior indicates that the counseling may be beneficial to the student. Specific circumstances will determine an appropriate mental health service referral, which may include drug, alcohol, and other educational workshops. Such mandated interventions may be at the student's cost.
- **Financial Restitution**, which may require individuals to restore or replace within a specified time, property which has been damaged, defaced, lost, or stolen.
- **Revocation or Restriction of Privileges**, for the use of designated University facilities or programs.
- **Disciplinary Probation**, which consists of an official notice that further violation of University policy will result in serious consideration being given that the individual or group not be permitted to continue as a student or group at the University of Rochester. This is a serious warning which serves as a check on the student's or group's future behavior. Once a student or group is on probation, any further disciplinary action will be more severe. Probation is given for a period of time and can limit the activities or privileges of a student or group. For example, students on probation are not able to join a fraternity or sorority nor are they permitted to study abroad.
- **Deferred Removal from University Housing**, which means that any violations of the standards of student conduct committed by the student during the deferred removal period will result in the student being immediately removed from housing and banned from the campus residential areas
- **Deferred Suspension**, which means any violations of the standards of student conduct committed by the student during the deferred suspension period will result in the student being immediately separated from the University of Rochester
- **Suspension from University Housing**, which involves revocation of the privilege of living in University housing for a certain period of time. Students or groups who have their housing contracts or leases terminated for conduct reasons are not entitled to a reimbursement.
- **Suspension**, which generally involves the revocation of the privilege of attending the University and using its facilities for a typical period of one year. Conditions for re-entry may be specified and every student needs to apply for readmission.

- **Expulsion**, which means the student is permanently separated from the University. He/She/They may not apply for readmission to any program.

Other common responses may include alteration of housing selection privileges; research assignments; project, program, and presentation requirements; revocation of other University privileges (e.g., access to computer systems, dining venues, sports and recreation facilities); or mandated follow-up meetings with University officials.

Once a response is issued, it is the responsibility of the student to ensure that the response is completed in a timely fashion. Failure to complete an assigned response will result in an additional charge, and will be handled administratively by the judicial officer. Students failing to complete conduct responses normally have their student accounts placed on hold (making them unable to register for classes or receive transcripts) until such response is completed.

### **Common Responses for Student Organizations/Groups**

This list is by no means inclusive of all options open to conduct officers and boards in creating responses tailored to educate the involved organizations and repair harms caused to the community.

- **Social Probation:** A group on social probation is not permitted to hold functions/gatherings where alcohol is present.
- **Formal Disciplinary Probation:** A group on formal disciplinary probation is not permitted to hold any functions or gatherings, including gatherings without alcohol or where only members are present.
- **Financial Restitution**, which may require organizations to restore or replace within a specified time, property which has been damaged, defaced, lost, or stolen.
- **Suspension of the New Member Process:** Organizations will be required to cease all activities related to the intake of new members. This suspension may be temporary or permanent.
- **Suspension from University Housing**, which involves revocation of the privilege of living in University housing for a certain period of time. This would pertain to the organization as a whole and not necessarily individual members.
- **Loss of organizational recognition:** Organizations may lose their status as a recognized student organization along with all of the rights and privileges afforded to recognized organizations. This loss of recognition may be temporary or permanent.

### **COMMON RESPONSES BY POLICY VIOLATION**

The responses listed below are used as a guide to demonstrate the expected consequences from typical cases involving the specific charge alone and without mitigating circumstances. In all cases, conduct officers and boards are expected to use discretion and good judgment, and are in no way bound by these recommendations.

- **Alcohol and Other Drug Offenses:** Typical individual responses range from a written warning, disciplinary probation, completion of an alcohol and/or drug education program<sup>3</sup>, educational assignment, risk assessment conducted by a qualified substance abuse professional, suspension from University housing or the University, and/or expulsion from the University. Typical group responses range from immediate termination of the event/function, submission of guest lists for all future formally registered events/functions, restriction of guests to only those of age or only those belonging to the specific organization, continuous on-site monitoring (at the organization's expense) of all events, mandatory alcohol education training community restitution hours, mandated third-party catering of future events involving alcohol, loss of University funding and/or recognition, and/or suspension of event/function hosting privileges.
- **Computer Misuse:** Typical responses range from a warning to loss of computer privileges as well as monetary fees.
- **Disorderly Conduct:** Typical responses range from letter of apology to expulsion from the University. In situations where students are physically violent towards another person a one year suspension from the University will be considered.

---

<sup>3</sup> Any costs associated with such programs are the responsibility of the student.

- **Fire Safety:** Responses vary widely depending on the nature of the violation, but can include at least one academic year of disciplinary probation and can result in expulsion from the University. If a student is found to be tampering with a fire safety device (i.e. smoke detector), that student will be placed on deferred removal from residence for the remainder of their time at the University. Any subsequent fire safety violations will result in the student being removed from his/her/their residence and being prohibited from entering all campus housing. If the student violates a different University policy while being on deferred removal, the outcome may result in the student being immediately removed from University housing and banned from campus residential areas. Students found to be in possession of candles in residential areas may be fined; this fine begins at \$50 and may increase per violation.
- **Harassment:** Typical responses range from a period of disciplinary probation to suspension from the University.
- **Hazing:** Typical responses range from a period of probation and educational assignment to expulsion from the University.
- **Vandalism and Damage:** Typical responses range from a period of disciplinary probation and restitution fines to removal from residence.
- **Sexual Misconduct:** See [Sexual Misconduct Policy](#).
- **Theft or Attempted Theft:** Typical responses range from disciplinary probation and restitution to suspension from the University.
- **Trespassing/Misuse of University Property or Facilities:** Typical responses range from a letter or apology to removal from residence.

## CONDUCT RECORDS

### Inquiries from external parties

Student records, including files from conduct cases maintained by the University, are treated with appropriate confidentiality, in accordance with the University policy on student records and relevant legal standards. University staff members that have knowledge of action taken against a student for misconduct may on occasion be asked to respond to inquiries regarding the student's involvement. In accordance with the confidentiality of such records, the University judicial officer may only reveal such information with the authorization of the student, except when allowed by law or when the University perceives a significant risk to the safety or well-being of that student or others. The University only considers incidents that result in a response of probation or above to be "disciplinary incidents" and therefore will not disclose incidents resulting in solely educational responses, formal letters of warning, or informal letters of warning to those requesting information regarding inappropriate conduct. Conduct files are normally destroyed seven years after the student's separation from the University. However, certain University officials may indefinitely retain records in other appropriate circumstances.

### University of Rochester Transcript Notation Policy

Any undergraduate or graduate student who is charged with a non-academic disciplinary violation may have the phrase "disciplinary charges pending" added to any transcript issued after charges are formally brought by the University. If the student is found not responsible for the violation, the notation will be removed. If the student is found responsible and suspended or expelled, the transcript will say the sanction was imposed "after a finding of responsibility for a code of conduct violation." Notations of expulsion shall be permanent. Notations for suspension may be removed one year after the suspension period has ended. Students may petition for removal of the notation at the end of the suspension period *unless* their suspension was for conduct that would be a "Crime of Violence" under the Clery Act (crime of violence definitions appear in the University publication *Think Safe*). Students who withdraw with pending, unresolved disciplinary charges will have a permanent notation on their transcript that they withdrew with conduct charges pending.



## **Internal inquiries**

University departments may wish to obtain information about a student's Disciplinary Status or Conduct History in connection with employment or selection for prizes and awards. Regardless of the type of information sought, University departments must notify the student before seeking the information.<sup>4</sup>

### Disciplinary Status vs. Conduct History

Disciplinary Status indicates whether a student is *currently* on Disciplinary Probation or Deferred Suspension, or is currently serving a Suspension. It would not indicate if a student has been found responsible for policy violations that resulted in a response less than Disciplinary Probation or, if they have *previously* been placed on Disciplinary Probation, Deferred Suspension, or have already served a Suspension. A student's Conduct History would indicate if they have ever been placed on Disciplinary Probation, Deferred Suspension, or been Suspended. The Center for Student Conflict Management does not release information about policy violations that result in a response less than Disciplinary Probation. In most situations, a Disciplinary Status check is most appropriate; University departments who wish to obtain a student's Conduct History should contact the Center for Student Conflict Management.

### Notifying or obtaining authorization from students

For guidelines on notifying or obtaining authorization from students, please contact the Center for Student Conflict Management at [conflict.management@rochester.edu](mailto:conflict.management@rochester.edu) or call 585-275-4085.

### Question or Concerns

If you have any questions or concerns about this procedure or the information you have received, please direct them to the Center for Student Conflict Management at [conflict.management@rochester.edu](mailto:conflict.management@rochester.edu) or call 585-275-4085.

## **INTERIM ACTIONS AND OTHER RESTRICTIONS**

The University retains the right to suspend, ban, or otherwise constrain or restrict students, groups, and organizations on an interim basis until the formal conduct process is completed, if they pose a perceived or actual threat to themselves, others, or to the orderly processes of the University community. The range of actions includes, but is not limited to, the following:

- **Interim Suspension—Individual:** If a student's presence on campus poses a perceived or immediate threat to his/her/their own or another's physical or emotional safety and well-being, the preservation of University or others' property, or safety and order on University premises, the University may impose interim restrictions up to and including immediate suspension pending a disciplinary hearing, which occurs as quickly as possible following an incident, but ordinarily within fourteen (14) business days. It is understood that in extreme cases, summary action may be imposed for a longer period of time. Interim Suspension restrictions may also be employed during any appeal process or post-hearing reviews.
- **Interim Action—Groups/Organizations:** Groups and organizations allegedly violating the Standards of Student Conduct or judged to be a perceived or immediate threat to the physical or emotional safety and well-being of one or more individuals, the preservation of University or others' property, or safety and order on University premises, may be subject to interim responses pending judicial or other means for resolution. Actions include, but are not limited to, Interim Social Probation (cancellation of the privilege to hold functions/gatherings in which alcohol is present) and Interim Suspension (cancellation of the privilege to hold any kind of function/gathering). Additional restrictions may be applied at the discretion of the University.
- **Active Avoidance Order:** If a student's presence on campus poses a perceived or immediate threat to a University community member's physical or emotional safety and well-being and/or sense of personal safety and security, the University can issue an Active Avoidance Order. The goal of this action is to diffuse difficult situations by imposing restrictions that require one person to actively avoid another in all situations. For more information regarding the Active Avoidance Policy please see page 15.

A student who has been issued an interim action is entitled to a prompt review, reasonable under the circumstances, of the need for this interim action. This review will be done by the Dean of Students or designee, specific information on how to file a request for a review is found in the interim action letter issued.

---

<sup>4</sup> Nothing in this document is intended to limit any University official's ability to access conduct information to protect health and safety or to enforce laws or University policies, with or without notice to the student.

## **POLICIES & PROCEDURES**

### **ACADEMIC MISCONDUCT**

**Please review the University's academic honesty policy by visiting:**

<http://www.rochester.edu/college/honesty/>

### **ACTIVE AVOIDANCE ORDERS (AAO)**

Active Avoidance Orders are issued by the judicial officer in order to limit the contact between two or more students that are engaged in an interpersonal conflict. An Active Avoidance Order is not considered disciplinary action and in cases of alleged misconduct, may be imposed prior to a conduct hearing. Failure to abide by an Active Avoidance Order may result in arrest, additional conduct charges, interim suspension or other sanctions as deemed appropriate by the judicial officer. If either party violates the Active Avoidance Order, the other party should contact the judicial officer or the Department of Public Safety.

In situations in which the judicial officer deems it necessary to invoke the Active Avoidance Policy, one or both parties are instructed to make no contact with the other party(s) by any means whatsoever. Each party is instructed to respect the need for each individual to be able to manage his/her/their University duties with a minimum of contact with the other(s). All individuals are also instructed to act reasonably and responsibly should incidental contact occur. If the respondent and the reporting individual observe each other in a public place, it is the responsibility of the respondent to leave the area immediately and without directly contacting the reporting individual.

### **Procedures**

When an Active Avoidance Order is issued or subsequently modified or changed, each party receives a letter instructing them to avoid all contact with the other party. This letter also contains instructions for how to submit an appeal and the proper action to take if the other party violates the order.

### **Appeals**

Both the respondent and the reporting individual shall, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for, and terms of, the AAO and shall be allowed to submit evidence in support of his/her/their request for review. Information about how to make a request for a review is found in the AAO letter issued.

### **Notification**

The University reserves the right to notify the Department of Public Safety and Residential Life staff as well as appropriate deans, department heads, supervisors, and Human Resources representatives on a need to know basis. These individuals may notify the appropriate staff members, limiting the number of staff notified to the minimum number of people who need to know.

### **Guidelines**

In all instances, all parties are expected to avoid all contact with each other, while respecting each individual's right to free access to the campus community. Occasionally, an individual's access to certain optional activities or facilities may be restricted. There are three categories of activity to which the Active Avoidance Policy may apply:

- A. Activities related to the performance of academic duties, e.g., attending classes, conducting research for a course, membership on committees or student groups, graduation exercises, etc.
- B. Use of common University facilities, e.g., Wilson Commons, dining facilities, parking areas, libraries, computing facilities, copy centers, access to health care facilities, etc.
- C. Voluntary or optional use of University facilities not related to academic performance, e.g., athletic facilities, attendance at sporting events, public events such as (non-required) lectures, concerts, or rallies, etc.

### **Responsibility for adherence to the policy**

In all instances when the Active Avoidance Policy is implemented, it is the University's goal that all parties are allowed to continue to function within the environment.

In cases of alleged misconduct, it is the respondent's primary responsibility to initiate leaving the area should both parties find themselves occupying the same space. This responsibility remains in effect unless leaving an area would constitute interference with the respondent's ability to fulfill his/her/their academic or work responsibilities.

The following guidelines may be used as examples of instances when contact may potentially occur. This list is not exhaustive or intended to limit application of this policy to other situations not described here:

- A. In all instances that involve an inadvertent one-to-one encounter (e.g., in the parking lots, in a hallway or stairwell, walking to or from one area to another), the respondent is instructed to leave the area immediately.
- B. In instances in which attendance at an event or function which involves a group of people is required by both parties (e.g., a required seminar or workshop, etc.), the respondent is instructed to delay entry to that area for as long as possible. If both parties must attend the same event or function, the respondent must take steps to avoid contact with the other party, such as positioning him/her/themselves far away and not in the other party's direct line of vision.  
  
In instances in which attendance by the accused is not required (e.g., at sporting events, public events, concerts, rallies, etc.), once the respondent becomes aware of the other party's presence, he/she/they are instructed to leave the area immediately or to delay entry until the other party has left.

### **Violation of the AAO**

Each party is instructed to make contact with the Department of Public Safety when a situation occurs in which one party feels threatened by another party's presence or behavior. All parties are further instructed to contact the judicial officer if one party attempts to make contact with the other or fails to leave an area. Individuals should not attempt to enforce the AAO or confront the other party if they are not complying with the AAO.

## **ALCOHOL AND OTHER DRUGS POLICY**

### **Introduction**

The goal of the University of Rochester's Alcohol and Other Drug Policies is to promote safety and wellness among the entire student body. Regardless of the consequences, students have the ability to choose whether or not they consume alcohol. However, students who engage in high-risk alcohol consumption often report negative experiences. By encouraging safer, more responsible alcohol consumption, the University hopes to create a safer community and reduce these negative effects. The University offers students numerous opportunities to learn about safer, more responsible alcohol consumption, such as SWARM Training, the Alcohol Education Seminar, and presentations during Freshman Orientation; there are also additional programs and opportunities available upon request from the Assistant Director of Alcohol and Other Drug Education in the Center for Student Conflict Management and/or the UHS Health Promotion Office. There are also resources for students who may need more individualized support to make responsible choices related to alcohol or other drug use. For a full list of resources, please see page 20.

The possession, use, and distribution of illegal drugs and the misuse or distribution of other controlled substances is prohibited. However, the University does provide educational resources and counseling services for students who may need support related to their use of illegal drugs and/or other controlled substances.

Students who choose to consume alcohol or other drugs in violation of these policies will be held accountable for their actions through the University's Conduct System. For a list of common responses to violations of this policy, please see page 10.

### **Medical Amnesty (for information regarding amnesty and sexual misconduct please see the [Medical Amnesty and Sexual Misconduct Policy](#))**

The University of Rochester seeks to remove barriers that prevent students from seeking the medical attention they need, particularly when they or another student is dangerously intoxicated and/or under the influence of alcohol or other drugs. In cases of a drug or alcohol emergency, the primary concern is the health and safety of the individual(s) involved. The purpose of the Medical Amnesty Policy is to increase the likelihood that community members will call for medical assistance when faced with an alcohol and/or other drug-related emergency. Students are encouraged to actively seek immediate medical attention for themselves or for another student whose health and/or safety is at risk. The Medical Amnesty Policy provides a special response to violations of the Standards for Student Conduct.

**Medical Amnesty Policy**

1. Students who seek medical attention for others related to consumption of alcohol or other drugs will not be charged with possession (unless with intent to distribute) or consumption of alcohol or other drugs in violation of the University of Rochester Alcohol and Other Drug Policy.
2. Students who receive medical attention related to the consumption of alcohol and/or other drugs in accordance with this policy will not be charged with violations of the University of Rochester Alcohol and Other Drug Policy (specifically, Standards 6 and 7 in the Standards of Student Conduct) provided that the student does the following:
  - a. Meets with a University staff member to discuss the incident
  - b. Completes any educational sanctions assigned by that staff member to help the student make safer, more responsible decisions with alcohol and/or other drugs.
3. This policy addresses violations of the University of Rochester Standards of Student Conduct. It does not grant amnesty for criminal, civil, or legal consequences for violations of Federal, State, or Local Law.
4. This Policy applies only in situations where students or organizations actively seek medical assistance in connection with an alcohol and/or other drug-related medical emergency and does not apply to individuals experiencing an alcohol or drug-related medical emergency who are found by University employees. (i.e. Department of Public Safety, faculty, administrative staff, Residential Life staff, including Resident Advisors).
5. Medical amnesty applies only to alcohol or other drug-related violations and does not apply to other conduct violations such as assault, property damage, endangering the health or safety of others, or distribution of illicit substances (or possession with intent to distribute). If other violations occur, then a student and/or student organization may face disciplinary charges for those violations. The use or abuse of alcohol or drugs is never considered a mitigating circumstance for any other violations of the Standards of Student Conduct.

### Federal, State & Local laws regarding alcohol & other drugs

The University of Rochester abides by all local, state, and federal laws regarding alcohol and other drug use, some of which are described below. Members and guests of the University community may be subject to discipline for violating public laws.

LAW	DESCRIPTION
Minimum Drinking Age Law	It is illegal in New York State for individuals under the age of 21 to purchase or possess alcoholic beverages with the intent to consume such beverages.
Procurement of Alcohol & Serving of Alcohol for Underage or Intoxicated Persons	It is illegal in New York State to sell alcohol to anyone under 21, to anyone who is already intoxicated, or to anyone who is habitually intoxicated. It is illegal to misrepresent one's age or that of anyone else under 21.
False Identification Laws	The purchase or attempt to purchase alcohol with the use of false or fraudulent documentation (such as a false identification card or a driver's license belonging to another) by persons less than 21 years of age is prohibited in New York State.
Open Container/Public Consumption Law	The possession/consumption of an open container of alcohol—i.e., any carton, cup, glass or receptacle which is uncapped, uncorked, unscrewed, unsealed or otherwise open in such a way as to permit direct consumption of the contents—in a public space is prohibited in the City of Rochester.
Driving While Intoxicated (DWI), Driving While Ability Impaired, Zero Tolerance Law	It is prohibited to drive with ability impaired (more than .05 up to .07 BAC) or while intoxicated (.087 BAC or more, or other evidence). It is illegal in New York State to drive under the age of 21 with any alcohol in one's system.
Illegal Use, Possession, & Distribution of Drugs Law	Federal and New York State laws provide many legal sanctions for the unlawful possession or distribution of controlled substances. These sometimes include severe criminal penalties such as fines and/or imprisonment. The severity of the penalty depends upon the nature of the criminal act and the identity and amount of the illicit drug involved.
General Obligations Law	A person who serves alcohol to or assists in procuring it for a person under 21, or who sells it to or assists in procuring it for an intoxicated person of any age may face civil liability to someone injured by that person's intoxication. Likewise, anyone who sells a controlled substance to another or assists in procuring it for them may be liable for injuries to others caused by that person's resulting impairment.
Prescription drugs	A drug that can be only obtained by means of a physician's prescription. Intended solely for the use of the holder of the prescription and must be maintained in its original container.
Use/Possession	The unlawful use or possession of any drug, narcotic, or controlled substance is prohibited.
Paraphernalia	The possession of drug paraphernalia, such as bong, pipes, or any other item or device when being used in conjunction with illegal drug activity is prohibited.

### University of Rochester policies regarding alcohol and other drugs

The following policies are in congruence with and in addition to any federal, state, or local laws regarding alcohol or other drug use and apply to all members of the University community and their guests:

POLICY	DESCRIPTION
Open Containers	<p>An open container is any receptacle containing alcohol, which is open in such a way as to permit direct consumption of the contents, is prohibited. Possession of an open container of alcohol anywhere on-campus is prohibited, except:</p> <ul style="list-style-type: none"> <li>• in a residence hall private living space, which includes common areas within suites;</li> <li>• in a fraternity or special interest house; or</li> <li>• in an area designated, through the event/function registration process, as a place where alcohol consumption is permitted.</li> </ul>
Common Containers	<p>A common container is a receptacle for dispensing multiple servings of an alcoholic beverage. Possession or use of kegs, beer balls, or other common containers is prohibited. Exception may apply for registered events in which specific criteria have been met or for registered events managed by a licensed caterer/third party vendor. Specifically, common containers are in violation of the code of conduct when any individual container exceeds the maximum amounts below:</p> <ul style="list-style-type: none"> <li>• 64 ounce container of beer;</li> <li>• 5 liter container of wine; or</li> <li>• One (1) liter container of distilled spirits.</li> </ul>
Rapid Consumption and Drinking Games	<p>Drinking games encourage rapid and heavy alcohol consumption that is strongly associated with negative alcohol-related consequences. Rapid consumption items used to dispense alcohol in a rapid manner, such as beer bongs and/or funnels are prohibited. Additionally, Jell-O shots and/or other substances meant to dispense alcohol in a rapid manner are prohibited.</p> <p>Drinking games or contests (e.g., "Quarters," "Beirut/Beer Pong," etc.) are prohibited. <b>Please note: The presence of alcohol where the game is played is sufficient to classify the incident as a drinking game violation, even when a game is played with a non-alcoholic beverage. Where interpretation is necessary, student(s) will be charged with the violation, and a hearing board/officer will interpret this policy. Paraphernalia associated with drinking games, (e.g., funnels, beer pong tables, etc.), will be confiscated.</b></p>
Public Intoxication	<p>Public intoxication, which is defined as alcohol-related conduct that is disorderly, offensive, or annoying to others or a potential risk to one's own or another's health and well-being is prohibited.</p>
Sale/Advertising of Alcohol/Serving	<p>The sale of alcohol to any person at all times, except by a licensed caterer/third party vendor at a registered event is prohibited. Invitations, posters, and other forms of advertising for specific events (including publicity via email distribution lists) may include references to alcohol, but may not be the focus of such publicity. Specifically, such publicity must include the phrase, "alcohol is only available to individuals 21 years of age and older." Shots may not be mentioned, nor may any reference to or implication of excessive consumption of alcohol or alcohol "specials" (e.g "two-for-one night," "dollar drafts"). Policy for Serving alcohol falls under the Law section "General Obligations Law."</p>
Events and Functions	<p>Possession or consumption of alcohol at all membership recruitment functions and new member/intake functions, such as those for Greek organizations, clubs, athletic teams, etc. is prohibited. Possession or consumption of alcohol in athletic facilities or at athletic events is prohibited.</p>
Freshman Areas	<p>Possession and use of alcohol by all persons in all freshman rooms and building common areas is prohibited. Residential Life staff, Resident Advisors, Freshman Fellows, and D' Lions of legal age are permitted to possess and use alcohol in private living spaces.</p>
Distributing/Trafficking	<p>Trafficking, manufacturing, distributing, or possessing with the intent to distribute any illegal drug, narcotic, or controlled substance is prohibited.</p>
Paraphernalia	<p>The possession of paraphernalia typically associated with drug use, such as bongs or pipes, is prohibited, regardless of whether or not the item is used in conjunction with illegal drug activity. The exception to this policy is the possession of hookahs, which can be registered with the Center for Student Conflict Management.</p>

### **Including parents in conversations about alcohol and other drugs**

The University supports the idea that students, parent(s) or legal guardian(s), and the University are partners with responsibilities for the promotion of a healthy and positive educational experience for students. University conduct policies and procedures are designed to promote an environment conducive to student learning and growth while protecting the University community. It is the belief of the University that students benefit from discussions with their parent(s) or legal guardian(s) about the effects of alcohol or use of controlled substances on their educational experience.

The University may notify parents/guardians of students, under the age of 21, who have been found in violation of the Alcohol and Other Drugs Policy. Notification of parents/guardians will occur when, in the opinion of the Dean of Students or his/her/their designee, a violation is significant enough to indicate a greater level of care may be necessary to support the student. It is our general practice to encourage a student to contact his/her/their parent(s) or legal guardian(s) prior to the University's notification, however, there may be circumstances when contact will be initiated more rapidly.

### **EVENT/FUNCTION REGISTRATION for events on River Campus**

An event that meets *any one or more* of the following criteria requires registration:

1. Any event with alcohol that meets **one or more** of these qualifications:
  - a) Is the event being hosted or planned by one or more members of the organization and supported by executive board officers?
  - b) Is the event financed in whole or in part by the organization including the purchase of alcohol?
  - c) Is the event listed or advertised on the organization's website or social media accounts (Facebook, Twitter, etc.)?
  - d) Do online invitations refer to the organization? This includes location name.
  - e) Is the event listed on the organization's calendar (public or private calendars included)?
  - f) Will the event be announced at an organization meeting or over organization's group text, Group Me, Slack Channels, etc.?

Example A (event must be registered):

An organization wants to host a wine tasting event for campus community members at an on campus location (fraternity house, May Room, etc.). The event is announced at the chapter meeting and advertise through CCC.

Example B (event does not need to be registered):

A 21 year old organization member wants to have people over to the fraternity house to watch football and will provide pizza and beer. They announce the gathering at the conclusion of the chapter meeting.

2. Any on campus event that requires significant University resources,) e.g., services supplied by Facilities, Event Support, Public Safety). This includes events that will be held in the following spaces: Upper Strong, Lower Strong, Spurrier Dance Studio, Douglass Commons, Wilson Commons Hirst Lounge, Wilson Commons May Room, the Palestra, and the Field House.
3. Any event, on-or off-campus, at which money will be collected (including but not limited to events with tickets, fundraisers, and raffles).
4. Any on campus conference hosted by a student group.
5. Any on campus event at which more than 20% of the audience and/or participants is expected to be non-U of R community members (conference included).
6. Any on campus event that involves working with a non-U or R organization, such as co-sponsors or guests.
7. Any programs, on- or off-campus, involving minors and children (not including University students who are minors).

You must meet with your staff adviser to begin the event registration process. Please see

[http://www.rochester.edu/college/wcsa/events/event\\_registration.html](http://www.rochester.edu/college/wcsa/events/event_registration.html) for information regarding how to register your event.

## **RESOURCES FOR EDUCATION, COUNSELING & TREATMENT**

The University of Rochester offers a variety of alcohol and other drug-related resources and support services for students, faculty and staff, including:

### **Department of Public Safety (24hr Emergency Resource)**

*Assistance with emergencies and non-emergencies on campus*

Dialing options:

1. 275-3333
2. campus phone x13
3. press #13 from a cell phone
4. If off campus dial 911

Medical Emergency Response Team (MERT) for River Campus: x13

<http://www.publicsafety.rochester.edu>

### **Center for Student Conflict Management**

Office: 585-275-4085

Alcohol and Other Drug Education: *Individual and Organization resources for alcohol and other drug related concerns*

<http://rochester.edu/college/cscm/AOD.html>

Student Conduct: *Policy administration, adjudication & resolution of violations*

<http://www.rochester.edu/college/cscm.html>

CARE: *Assistance connecting students with campus resources*

<http://www.rochester.edu/CARE>

### **University Health Service (UHS)**

*Primary care visits with physicians, nurse practitioners, and registered nurses for any health concern Medical Center*

Office: 585-275-2662

River Campus Office: 585-275-2161

Eastman School Office: 585-274-1230

<http://www.rochester.edu/uhs>

### **UHS Health Promotion Office**

*Educational workshops and information related to alcohol and other drugs*

Office: 585-273-5775

<http://www.rochester.edu/uhs/healthpromotion>

### **University Counseling Center (UCC)**

*Individual, couples, and group counseling*

Office: 585-275-3113

<http://www.rochester.edu/ucc>

### **Office of Residential Life & Housing Services (River Campus)**

Office: 585-275-3166

<http://www.rochester.edu/reslife>

### **Eastman School of Music**

Office of Student Life: 585-274-1106

<http://www.esm.rochester.edu/studentlife>

Office of Residential Life: 585-274-1251

<http://www.esm.rochester.edu/reslife>



## **RESOURCES FOR PLANNING AND REGISTERING EVENTS WITH ALCOHOL**

### **Wilson Commons Student Activities**

Office: 585-275-9390

<http://rochester.edu/college/wcsa>

### **Fraternity and Sorority Affairs**

Office: 585-275-3167

<http://www.rochester.edu/college/fsa>

### **Eastman Office of Student Life**

Office: 585-274-1106

<http://www.esm.rochester.edu/studentlife>

## **ATHLETICS CODE OF CONDUCT STATEMENT**

Students who participate in a University of Rochester Athletics program are expected to adhere to the University of Rochester Standards of Student Conduct and may be expected to adhere to additional codes of conduct as prescribed by their team and/or coach. For more information on these additional codes of conduct, contact your coach.

## **COMPLICITY**

The absence of active participation in misconduct is often an insufficient response to violations of the code of conduct. Individual students and student groups/organizations are expected to take an active role in disengaging themselves from all acts of misconduct, and are expected to report serious acts of misconduct to appropriate authorities. Failure to do so can be considered acts of complicity, and may result in that student or student group/organization facing the same charges as active participants.

## **EASTMAN SCHOOL OF MUSIC STATEMENT**

Policy violations involving Eastman School of Music students are processed by the Eastman School of Music Office of Student Life in conjunction with the Center for Student Conflict Management. To obtain Eastman School of Music policies, please contact the Eastman School of Music Office of Student Life at (585) 274-1106 or <http://www.esm.rochester.edu/studentlife>.

Note to dual degree program students: Policy violations will be addressed by the office responsible for conduct on the campus where the infraction occurred.

## **WEAPONS POLICY**

The University is committed to maintaining a safe and secure environment in which to conduct educational and research activities. This requires minimizing the risk of injury or death associated with intentional or accidental use of weapons. Students are therefore not permitted to possess or imply possession of a weapon anywhere on property owned, leased or controlled by the University of Rochester.

A weapon is any instrument that is used to inflict physical harm, is intended to be used to inflict harm, or could reasonably cause fear of infliction of harm, including any item that may be deemed a weapon under applicable law.

Examples include, but are *not limited* to: pistols, revolvers, shotguns, rifles, firearms, stun guns, BB or pellet guns, Tasers, bows and arrows, and other instruments that launch projectiles, including electric dart guns and paintball guns, as well as parts or ammunition relating to any of the above; martial arts tools, brass knuckles, daggers, swords, and knives (including Swiss Army knives); bombs, grenades, mines, explosives, or incendiary devices (which can include ignition devices and aerosols). A disarmed weapon still counts as a weapon.

The determination of whether an item is considered a weapon for the purposes of this policy will be made on the totality of the circumstances surrounding the item's possession and use. For example, an ordinary kitchen knife used for food preparation would not be considered a weapon in connection with that use. If there are questions about whether a given item counts as a weapon, students should contact the [Center for Student Conflict Management](#) for clarification before bringing the item to campus.

## **FIRE SAFETY POLICIES**

Fire safety is very important to the University community. Most fire-related emergencies can be avoided by practicing fire safety, including avoiding the non-approved items and appliances below.

### **Non-Approved Items**

These items can generally produce enough heat to start a fire if used improperly, or sources of fuel in case of fire, including but not limited to:

- Candles, lantern, lamps or any other item that produces an open flame
- Tobacco, incense or any other item that burns or smolders when used
- Hoverboards and self-balancing scooters
- All flammable materials (gas, lighter fluid, charcoal, propane, solvents, etc.)
- All items powered by combustible fuels (such as motorcycles)
- All fireworks, explosives, etc.
- All corrosive (or poisonous) chemicals and hazardous materials
- All lightweight extension cords or multi plug outlet adapters
- Heavy weight power strips or extension cords without safety circuit breakers
- Multiple approved power strips connected together ("chaining")
- All cords extended through walls, ceilings, affixed to walls, under floor coverings, across corridors, etc.
- Curtains/drapes and anything covering ceilings (tapestries, banners, posters, nets or other combustible materials)
- Wall decorations covering more than 20% of walls (tapestries, banners, posters or other combustible materials)
- Crepe paper, plastic or Mylar decorations, ribbons, streamers, etc.
- Combustible materials as door decorations covering more than 20% of doors total
- Runners, door mats, or other combustible floor coverings in hallways and suite corridors
- All standard and "rope type" decorative string lighting (Christmas, chili pepper, etc. lights)

### **Non-Approved Appliances**

These items/devices generally have open elements or can produce enough heat to start a fire if used improperly, including but not limited to:

- George Foreman grills or similar cooking appliances
- Toasters- portable or toaster ovens, etc. (except in designated cooking areas)
- Hotplates, electric skillets, crock pots, etc.
- Combination microwaves with broiling elements
- Submersion coil water heaters
- BBQ grills, smokeless indoor grills, or open flame devices (charcoal, gas or other fuel)
- Personal lighting that has an upward facing lamp (regardless of protective cover or bulb type)
- Non-UL safety approved electric powered appliances
- All portable heating devices (space heaters of any type)

## **FRATERNITY AND SORORITY LIFE STATEMENT**

Students who violate the Standards of Student Conduct may be ineligible to participate in fraternity or sorority life. In addition, members of organizations that have been suspended or disaffiliated from the University may be ineligible to represent the fraternity/sorority community on campus-wide committees or participate in leadership positions related to fraternity and sorority life, including but not limited to governing councils and Order of Omega.

For more information on these additional standards please visit the Fraternity and Sorority Affairs website located at <http://www.rochester.edu/college/ofsa/> or contact Fraternity and Sorority Affairs at (585) 275-3167.

## **GROUP RESPONSIBILITY POLICY**

A student organization may be held accountable for a violation of University policy committed by an individual, whether or not the individual is a member of the organized group, if the group, or a substantial segment of it, authorizes, directs, or encourages the violation, or with reckless indifference does not make reasonable use of the group's own influence and authority to prevent it. Violations occurring within a group's living space, during or because of a group's function, or utilizing a group's resources are all indications of responsibility for that group. Determination as to whether the violation will be resolved through the individual or group process will be at the discretion of the judicial officer. As with any responsible organization, groups are expected to actively prevent violations if there is sufficient reason to believe they are about to be committed, to intervene in violations when they become aware of them, and to react responsibly to violations

when the group has become aware of the fact that they have occurred. Additionally, failure to provide truthful and complete information about misconduct—including both violations of law and policy—can result in charges against the group itself for such violations.

## **HAZING POLICY**

No student should ever be harmed or degraded while seeking membership in any student organization at the University of Rochester. When choosing to join an organization, individuals should be treated according to the Communal Principles of the College:

- New members are treated with Fairness through openly-stated expectations and clear communication about new member activities.
- New members experience the Freedom to learn and express themselves without threat to their education or well-being.
- Trust is built between individuals through Honesty, which strengthens interpersonal connections within an organization.
- Through Inclusion, the new member program brings people together rather than setting up divisions between new members and other students.
- Existing members demonstrate Respect by valuing new members' differences and showing regard for their well-being and safety.
- Existing members model Responsibility by demonstrating effective leadership and educating new members in a way that prevents physical or emotional harm.

Hazing is any activity related to joining, or ongoing membership in, any organization, which intentionally or recklessly creates a situation that can reasonably be expected to cause physical or psychological injury, discomfort, embarrassment, or degradation. Note that hazing is a violation regardless of a person's willingness to participate in the activity. Some examples of hazing include (but are not limited to) activities that cause excessive fatigue, forced consumption of any kind, or actions that interfere with the pursuit of ordinary activities. Scavenger hunts and road trips may constitute hazing, and therefore require explicit and prior approval of the appropriate director or dean.

Violations are reviewed by the judicial officer and may include consultation with the director of Fraternity and Sorority Affairs, the director of Athletics, or other appropriate University officials. In responding to groups found responsible for hazing, conduct boards are trained to begin response discussions with the possibility of revoking the recruitment privileges of such organizations.

Community members who are concerned that a student is being hazed are encouraged to use the [CARE Network](#), the [Harassment/Bias Related Incident Report](#) form, or contact the Center for Student for Student Conflict Management by Email at [conflict.management@rochester.edu](mailto:conflict.management@rochester.edu).

## **STUDENT POLICY AGAINST DISCRIMINATION AND HARASSMENT**

The University of Rochester takes acts of harassment and discrimination very seriously. This Policy provides information about the rights of, and the resources available to support, individuals who believe that a University of Rochester student has engaged in harassment or discrimination, based on a person or group's actual or perceived membership in a protected class, as described below.

The University prohibits and will not engage in discrimination and harassment on the basis of age, color, disability, ethnicity, military/veteran status, national origin, race, religion/creed, or any other status protected by law.<sup>5</sup> Discrimination or harassment based on these protected classes is illegal and will not be tolerated.

The University also prohibits retaliation (defined below) against any person who complains of or opposes perceived unlawful discrimination or harassment, including those who participate in any investigation under this policy or other proceeding involving a claim based on a protected class. Retaliation is illegal and will not be tolerated.

The University may investigate and respond (in accordance with this policy) to complaints of harassment, discrimination and retaliation by one or more students against one or more members of a protected class that are reported to have occurred either on or off campus.

---

<sup>5</sup> Harassment and discrimination by students, based on sex, sexual orientation, gender identity and expression and similar categories is separately addressed in the Student Sexual Misconduct Policy. Harassment and discrimination by non-students (such as staff, faculty, and visitors) is subject to Policy 106.

## 1. Definitions:

### A. *Discrimination*

Discrimination is (1) any conduct (2) that adversely affects or impacts an individual's or group's ability to function and participate as a member of the University community (3) because of their age, color, disability, ethnicity, marital status, military status, national origin, race, religion, veteran status, or other status protected by law, or because of their perceived or actual affiliation or association with such individuals or groups. Discrimination includes any behavior that is unlawful discrimination under applicable New York State and/or federal law and the interpretation of discriminatory conduct will be informed by such laws.

Examples of prohibited discrimination include, but are not limited to, exclusion from or denial of access to services and/or resources on the grounds of a person's age, color, disability, ethnicity, marital status, military status, national origin, race, religion, or veteran status.

### B. *Harassment*

Harassment is a form of discrimination which involves (1) unwelcome verbal, written, physical, or electronic conduct, (2) that is intended to cause or which could reasonably be expected to cause an individual or group to feel intimidated, demeaned, abused, or fearful, or to have concern for their personal safety, (3) because of a protected class when:

(a) the conduct is sufficiently *severe or pervasive* (meaning that the conduct is either of an extraordinarily severe or egregious nature *or* has been repeated with sufficient frequency or continuity); in other words, typically a single offense or occasional, episodic instances of offensive behavior will not qualify as severe or pervasive, but a single instance of severe egregiousness would, *and*

(b) the conduct objectively *and* subjectively has the effect of (1) unreasonably interfering with an individual's equal access to education or (2) creating an intimidating, hostile, or offensive environment.

Under New York and federal law, all of these requirements must be met for certain behavior to qualify as harassment. Types of behaviors based on a protected class which can lead to claims of harassment include degrading and derogatory words, graffiti, pictures, jokes, epithets, statements or stereotyping activities as well as other forms of verbal, visual or written messages of intimidation, as well as unwanted physical contact or comments or threats about physical contact and stalking.

Mere offensiveness, however, is not enough to create a hostile environment. In determining whether Harassment has created a hostile environment, the University will consider not only whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as violating this policy. Also, the following factors will be considered:

- The degree to which the conduct affected one or more students' education ;
- The nature, scope, frequency, duration, and location of incident or incidents;
- The identity, number, and relationships of persons involved;

### C. *Retaliation*

Retaliation is any adverse action taken by a member of the University community against a person because of the person's participation in a complaint or investigation of harassment or discrimination that is intended to, or could reasonably be expected to, dissuade a reasonable person from filing claim or participating in an investigation in the future.

### D. *Aiding or Facilitating*

Aiding or facilitating is any action or course of action that assists, promotes or encourages the commission of a violation under this policy. Aiding or facilitating may also include failing to take action to prevent an imminent act when it is reasonably prudent and safe to do so. Taking action may include direct intervention, calling Public Safety or local law enforcement or seeking assistance from a person in authority.

#### E. *Guests*

Students' failure to take reasonable steps to prevent their guests from violating the code of conduct, including this Policy Against Discrimination and Harassment may result in those students being charged for a violation of this policy.

### 2. Reporting and Interim Measures

#### A. *Reporting*

The University can only act to prevent harassment and discrimination from reoccurring in the future, and to remediate such conduct that has occurred, if it is made aware of such conduct. Students, faculty, staff members, visitors and others who believe that the conduct of a University of Rochester student constitutes harassment or discrimination are encouraged to report the incident to the Office of Counsel, the Dean of Students, University Public Safety or another Responsible University Official. Responsible University Officials at the University of Rochester include a lawyer from the University's Office of Counsel, University Public Safety, the Director of the Office of Minority Student Affairs, the University Intercessor, the Director of the Paul J. Burgett Intercultural Center, the Dean for Diversity Initiatives and Director of the David T. Kearns Center, the Director of Residential Life, and the professional staff members in other student life offices in each of the University's schools.<sup>6</sup> Responsible University Officials, once notified of a report of harassment or discrimination, must promptly inform the Office of the Dean of Students.

The Center for Student Conflict Management (CSCM) in the Office of the Dean of Students also maintains an online bias reporting system as part of the CARE Network where reports of any conduct which may constitute discrimination or harassment can be made. It can be accessed at [https://rochester-advocate.symplicity.com/public\\_report/](https://rochester-advocate.symplicity.com/public_report/). Reports may be made anonymously or not, and will be reviewed generally within 72 hours and investigated/addressed as appropriate under the circumstances.

#### B. *Interim Measures*

After a report is made, the person who is reported to have been a victim is offered support in as needed in dealing with the consequences of such conduct. The University may also take interim steps to protect that individual and/or the community, which can include removing an accused student from campus or other actions deemed appropriate under the circumstances. Disciplinary action against an accused student may follow, which would involve an administrative hearing on campus.

#### C. *Confidentiality*

As a community, we believe it is imperative that students are able to access support services offered by the University even if they do not wish to report the incident to the University. Students who are the victims of discrimination or harassment based on a protected class who wish to access University support services without making a report to the University can contact the University Health Services, University Counseling Center, and University Chaplains. The staff members in these offices are not required to report the details of an incident to other administrators at the University, however, they are asked to submit a bias incident report. The bias incident report does not need to include any personally identifiable information regarding the individuals involved in the incident.

### 3. Procedures

Students accused of Harassment or Discrimination as defined above will be charged and, if found responsible, sanctioned, pursuant to the conduct process (including appeals) described in this Standards of Student Conduct, beginning at page 6.

### 4. Academic Freedom and Free Speech

The success of the University of Rochester depends on an environment that fosters vigorous thought and intellectual creativity. It requires an atmosphere in which diverse ideas can be expressed and discussed. The University seeks to provide a setting that respects the contributions of all the individuals composing its community, that encourages intellectual and personal development, and that promotes the free exchange of ideas. This Policy is not intended to regulate the content of speech, discussion and debate in the classroom, on campus or in any University forum reasonably related to academic activity or political, artistic and visual arts expression. The University will protect

---

<sup>6</sup> In this policy, the term "Responsible University Official" is used instead of "Responsible Employee," which is used in the Student Sexual Misconduct Policy. The roles are similar – both have reporting obligations – but the personnel included within the definitions are not the same. Many persons who are Responsible Employees (e.g. most residential life staff) are not Responsible University Officials.

academic freedom and artistic expression in administering this Policy. However, using speech or expression to discriminate against those protected by this Policy or using speech that creates a hostile learning, working or campus living environment for those protected by this policy is prohibited.

#### 5. Resources

The University of Rochester is committed to supporting students who believe they have experienced harassment or discrimination. The University encourages such individuals to report the incident so steps can be taken to remediate and prevent such conduct from occurring again. With that in mind, the University wants to ensure that you get the information and support you need regardless of whether you would like to move forward with a report to campus officials. You may want to talk with someone about something you observed or experienced, even if you are not sure that the behavior constitutes harassment or discrimination. A conversation where questions can be answered is far superior to keeping something to yourself. Confidentiality varies, and the following is aimed at helping you understand how confidentiality applies to different resources that may be available to you.

#### **Confidential Resources:**

Individuals who are *confidential* resources will not report offensive conduct to law enforcement or college officials without your permission, except for extreme circumstances, such as a health and/or safety emergency.

At the UR, this includes:

- **University Counseling Center:** 585-245-3113  
**River Campus Office (585) 275-3113**  
Third Floor, UHS building  
738 Library Road  
Susan B. Anthony Circle  
**Eastman School Office (585) 275-3113**  
ESM Living Center, Room 107  
A limited number of appointments available.  
Call (585) 275-3113 to schedule an appointment.  
  
<https://www.rochester.edu/ucc/contact/index.html>
- **University Health Service:** Licensed medical professionals acting in accordance with their professional responsibilities: 585-275-2662

**UHS River Campus Office**  
**Phone: 585-275-2662**  
1st Floor, UHS Building  
738 Library Road, River Campus  
**UHS Medical Center Office**  
**Phone: 585-275-2662**  
Room 1-5077, UR Medical Center (The entrance is at 250 Crittenden Blvd.)  
**UHS Eastman School Office**  
**Phone: 585-274-1230**  
Room 106, ESM Student Living Center

<https://www.rochester.edu/uhs/contact/LocationHours.html>

- **Non-professional counselors and advocates:** These individuals can also assist you without sharing information that could identify you. At the University of Rochester, this includes:

**University Chaplains**  
**Phone: 585-275-4321**  
500 Wilson BLVD  
<http://www.rochester.edu/chapel/communities.html>

Sharing information with a confidential resource will not result in a report to the University or investigatory or disciplinary action. In order to initiate an investigation or disciplinary action, a report must be made through one of the non-confidential options described in this policy.

### **Privacy versus Confidentiality**

Even UR offices and employees who cannot guarantee *confidentiality* will maintain your *privacy* to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution. There are other resources available on campus that might be effective support for any student who experiences discrimination or harassment. These resources will maintain your privacy to the extent possible, but are obligated to report conduct that is discriminatory or harassing based on a protected class to a Responsible University Official.

Non-confidential resources include:

- **Office of Minority Student Affairs**  
**Phone:** 585-275-0651  
**Room:** 2-161 Dewey Hall, River Campus
  
- **Paul J. Burgett Intercultural Center**  
**Phone:** 585-275-6662  
**Room:** 4-160 Dewey Hall, River Campus
  
- **Dean for Diversity Initiatives**  
**Phone:** 585- 275-7531  
**Room:** 4-160 Dewey Hall, River Campus
  
- **David T. Kearns Center**  
**Phone:** 585-275-7512  
**Room:** 4-160 Dewey Hall, River Campus
  
- **University Intercessor**  
**Phone:** 585-275-9125  
**Room:** 36 Wallis Hall, River Campus

### **Requesting Confidentiality: How UR Will Weigh the Request and Respond**

If you disclose an incident but wish to maintain your privacy or do not consent to the institution's request to initiate an investigation, the University must weigh your request against our obligation to provide a safe, non-discriminatory environment for all members of our community, including you.

We will assist you with academic, housing, transportation, and other reasonable and available accommodations regardless of your reporting choices using the following analysis:

- a. If it could improve safety
- b. Prevent retaliation
- c. And/or avoid an ongoing hostile environment

While victims may request accommodations through several college offices, the following office can serve as a primary point of contact to assist with these measures: Center for Student Conflict Management (585) 275-4085. We also may take proactive steps, such as training or awareness efforts, to combat harassment and discrimination in a general way that does not identify you or the situation you disclosed.

We will seek consent from you prior to conducting an investigation. You may decline to consent to an investigation, and that determination will be honored unless we determine that failure to investigate may result in harm to you or other members of the UR community. Honoring your request may limit our ability to meaningfully investigate and pursue disciplinary action against an accused individual. If we determine that an investigation is required, we will notify you and take immediate action as necessary to protect and assist you.



When you disclose an incident to someone who is responsible for responding to or reporting harassment or discrimination, but wish to maintain privacy, UR will consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

- whether the accused has a history of discriminatory or harassing behavior or is a repeat offender;
- whether the incident represents escalation from previously noted behavior,
- the increased risk that the accused will commit additional acts of discrimination or harassment against others;
- whether the accused used a weapon or force; and
- whether we possess other means to obtain evidence such as security footage, and whether the report reveals a pattern of perpetration at a given location or by a particular group.

### **Public Awareness/Advocacy Events**

If you disclose a situation through a public awareness event such as candlelight vigils, protests, student organization or other event or forum, or other public event, the UR is not obligated to begin an investigation. UR may use the information you provide to inform the need for additional education and prevention efforts.

### **Anonymous Disclosure**

Anonymous reports of violations of this policy may be made using the following resources:

- Bias-Related Incident Report Form, [https://rochester-advocate.symphlicity.com/public\\_report/](https://rochester-advocate.symphlicity.com/public_report/)

Due to their nature, anonymous reports may be difficult to act upon.

If you or someone you know has experienced harassment or discrimination the following options are available. You can:

- **Meet with the Center for Student Conflict Management to discuss the support services available to you and your options for filing a report.** The CSCM can be reached by calling 585-275-4085 or via e-mail at [Conflict.management@rochester.edu](mailto:Conflict.management@rochester.edu).
- **Make a formal report to University Department of Public Safety (DPS) (585-275-3333):** DPS can help you file a formal report to the University about the incident. DPS can also assist you in making a report to the appropriate legal authority (Rochester Police, Monroe County Sheriff's Office, NY State Police etc.) if the behavior might constitute criminal harassment. You can choose to simultaneously report the incident to the University and the appropriate law enforcement agency for investigation and response. You can also choose to only report the incident to local law enforcement or only report the incident to the University. If you choose to make a report to the University, DPS investigators will conduct an investigation, as appropriate and under the direction of the Office of the Dean of Student on the River Campus (ODOS). The ODOS is responsible for adjudicating all cases of harassment or discrimination at the University in which the accused is a student. If they haven't done so already, staff members from ODOS will then connect with you to discuss your options, including steps in the conduct process, resources available to support you, and the planned process for moving forward. Some things the University may be able to help arrange are (in no particular order):
  - **Issuing Active Avoidance Orders:** If a student's presence on campus poses a perceived, threat to your physical or emotional safety and well-being and/or sense of personal safety and security, the University can issue an Active Avoidance Order (AAO). Please see the Standards of Student Conduct section on Active Avoidance Orders for more information about the issuance of AAOs.
  - **Helping Coordinate Alternative Housing, Transportation, and Classes:** The University will discuss alternative housing, transportation to and from campus, and classes when that support is appropriate.
  - **Taking Interim Measures:** The University can determine whether interim measures need to be taken to arrange alternative on campus housing or class schedules or remove the student(s) from campus and/or classes or before a hearing can occur. Please see the Standards of Student Conduct section on interim suspensions for more information regarding that process.
  - **Coordinating an Administrative Hearing: When appropriate, the ODOS will call for the complaint to be resolved through the administrative hearing process.** See below for more information about this process.

- **Filing a report with the appropriate police department.** DPS can help connect you to the appropriate law enforcement agency if you wish to report the potentially criminal harassment incident to the police. You can choose to simultaneously report the incident to the University and the appropriate law enforcement agency for investigation and response.
- Any student who wishes to speak with anyone at the University regarding an incident of harassment or discrimination has the right to be accompanied by an advisor of choice (at the party's own expense, if the advisor is a paid advisor) who can assist and advise the student, including during any meetings and hearings related to any disciplinary process. **Confidentially discuss the incident with a counselor at the University Counseling Center (585-275-3113):** University Counseling Center (UCC) can help provide mental health support during a difficult situation 24 hours a day with their on-call counselor and appointments are also available. **Reports made to UCC or UHS are confidential.**
- **File a bias related incident report:** If you wish to make a report about the incident to the University without including your name or personally identifiable information you may file a bias-related incident report.
- **Do nothing:** You may also make it known that you do not want anything to be done with the situation right now. In situations where students indicate that they would not like the University to investigate or respond to the report of the incident the University will most often honor those wishes.<sup>7</sup> There are, however, some circumstances when concerns about the safety of the University community are raised by the report. In those circumstances the University will investigate and respond as appropriate even without the assistance of the person alleged to have been a victim.

---

<sup>7</sup> Please see above for information regarding the criteria the University will use when determining whether or not it will proceed with an investigation without the consent of the reporter. Reports of incidents that give rise to concerns about professional misconduct among medical and nursing students will be investigated and responded to by the University due to professionalism standards in those academic programs.

## **INVOLUNTARY LEAVES OF ABSENCE**

The University of Rochester provides a wide range of services to support and address the mental and physical health needs of students including assessment, short-term care as appropriate, and referrals. Our first concern is for the health and welfare of each individual in our community. Our goal is to enable all of our students to participate fully as members of Rochester's academic community. However, students who disrupt, or threaten to disrupt, the activities of the University community for reasons that are not necessarily best addressed through disciplinary action, may be required to take a leave of absence from the University. Under these circumstances, students will be given the opportunity to take a voluntary leave. If a student declines to take a voluntary leave, the University may determine that the student's welfare, or the needs of the community, requires a period of involuntary leave. The following policy establishes the protocol under which an involuntary leave of absence may occur and the process for return from such a leave.

### **Guidelines**

The University may place a student on an involuntary leave of absence or require conditions for continued attendance when the student exhibits behavior that:

- harms, or threatens to harm, the health or safety of anyone within the University community;
- causes, or threatens to cause, significant property damage; or
- significantly disrupts the educational and other activities of the University community.

### **Withdrawal Process**

When a student exhibits any of the behaviors described above, the matter may be brought to the attention of the appropriate dean or designee. The dean, or designee, will seek an immediate assessment of the student's ability to remain at the University. This assessment will be based on the student's observed conduct, actions and statements and may require consultation with The University Counseling Center (UCC), University Health Services (UHS), or from other appropriate professionals regarding the student's circumstances.

The student will be notified that the dean, or designee, is seeking to determine whether he/she/they should be required to take a leave of absence. The student will be given the opportunity to confer with the dean, or designee, and to provide additional information for consideration.

The dean, or designee, will review the available information to make a decision that may include the following:

- the student remain enrolled with no conditions;
- the student remain enrolled subject to conditions (including a description of those conditions); or
- the student be placed on an involuntary leave of absence.

If the dean's, or designee's, decision is to require an involuntary leave of absence, the decision will also indicate the length of the leave and describe the conditions (if any) under which the student may seek to return from leave. The student will then be withdrawn by the dean of the school, or designee, in which the student is enrolled. For undergraduate students further information about the withdrawal process, tuition refund implications of the withdrawal (if any), and applications for readmission are available from the College Center for Advising Services at (585) 275-2354.

The student shall be informed in writing by the dean, or designee, of the leave decision, the effective date of the leave, and conditions for return (if applicable). If a student is permitted to remain enrolled subject to conditions, the student shall be informed in writing of the effective date and the duration of the modified attendance.

### **Appeal Process**

A student who is placed on an Involuntary Leave may appeal the decision to the dean of the school in which the student is enrolled, or designee, within seven days of their receipt of the letter from the dean, or designee, notifying them of the decision to place them on leave. The appeal must be in writing, delineating the reason(s) why the student believes the decision is inappropriate. The dean of the school will review the student's appeal and uphold, reverse, or alter the decision. The dean of the school's decision will be communicated to the student in writing and shall be considered final.

### **Process For Return From Leave**

A student seeking a return from leave must meet the conditions specified by the dean or designee. The student must submit a letter to the dean, or designee, requesting to return to the University. It is the responsibility of the dean, or designee, to review the student's compliance with specified conditions for the return from leave, and to determine whether other behaviors or events during leave render return advisable, and to advise other University offices accordingly. Appropriate

administrative duties with respect to commencing this leave process and maintaining its records will be the responsibility of the dean or designee.

### **Interim Actions**

The University retains the right to suspend, ban, or otherwise constrain or restrict students, groups and organizations on an interim basis if they pose a perceived or actual threat to themselves, to others, or to the orderly processes of the University community. For more information please see the interim actions and other restrictions section of this Standards of Student Conduct booklet (for undergraduates) and the Graduate Student Bulletin (for graduate students).

### **Confidentiality**

All records concerning involuntary leaves of absence will be kept in accordance with the University confidentiality policy and other applicable policies. No statement regarding the reasons for the leave of absence or withdrawal appears on the student's official transcript.

### **NON-MOTORIZED TRANSPORTATION POLICY**

All non-motorized transportation, including bicycle riding, skateboarding, roller skating, rollerblading, and scooter riding, is prohibited in all University buildings. Non-motorized transportation is only permitted on walkways, roadways, and ramps when the operator does not create a hazard to him/her/themselves or others. Skateboarders and roller skaters must not skate two (2) or more abreast. Performing jumps or other stunts is strictly prohibited on the campus. Persons causing damage to persons or property while engaged in the use of these devices will be held financially responsible. Requests for exceptions to this policy for programmed events must be made in writing to Wilson Commons Student Activities (Wilson Commons 201, 585-275-9390).

Bicycle racks are located throughout the University. The University is not responsible for the theft of or damages to bicycles left on racks. Bicycles may not be parked next to sign posts, trees, light poles or handrails.

Students are advised that New York State has additional regulations regarding the use of non-motorized transportation. These regulations can be obtained at the City Hall or by visiting their website at <http://www.safeny.ny.gov/bike-vt.htm#top>. The City policy pertains to these activities on public property, such as city streets, sidewalks, and parks.

Additional questions or comments should be directed to the Office of the Dean of Students (585-275-4085) in 510 Wilson Commons.

### **PARKING POLICIES**

Please review all Parking Services policies by visiting: <http://rochester.edu/parking/>.

### **RESIDENTIAL LIFE AND DINING SERVICES POLICIES**

Please review all Residential Life and Dining Services policies contained in the Residential Life and Dining Services contract located at <http://rochester.edu/reslife/freshmen/contract.html> for freshman and <http://rochester.edu/reslife/upperclass/contract.html> for upperclassman

Additional information about dining services policies can be found online here: <http://www.rochester.edu/dining/terms-and-conditions/terms-and-conditions/>

### **EDUCATION ABROAD CODE OF CONDUCT STATEMENT**

Students should be aware that an expanded code of conduct exists for those participating in study abroad programs. Please review all policies by visiting: <https://www.rochester.edu/college/abroad/students/preparing.html>.

### **UNIVERSITY TOBACCO POLICY**

The use of tobacco, including the use of electronic smoking devices, is not permitted on any University property except in designated areas.

## **INFORMATION TECHNOLOGY POLICIES**

### **Purpose**

The University of Rochester recognizes the vital role information technology plays in the University's missions and related administrative activities, as well as the importance in an academic environment of protecting information in all forms. As more information is used and shared in a digital format by students, faculty and staff, both within and outside the University, an increased effort must be made to protect the information and the technology resources that support it. Increased protection of our information and Information Technology Resources to assure the usability and availability of those Resources is the primary purpose of this Policy. The Policy also addresses privacy and usage of those who access University Information Technology Resources. Please review all University IT policies by visiting:

<http://www.rochester.edu/it/policy/>

### **RESIDENTIAL COMPUTING NETWORK (ResNet)**

#### **Acceptable Use Policy**

The Residential Computing Network (ResNet) at the University of Rochester provides in-room and public area connection services in River and Eastman campus residences in support of the educational mission of the University. It is the responsibility of each resident to use these services appropriately and in compliance with all University, local, state and federal laws and regulations. Access is a privilege that can be revoked due to misuse. By accepting University housing and/or connecting to the ResNet system the user agrees to the terms and conditions of this Acceptable Use Policy, related University of Rochester computer use policies and the Standards of Student Conduct.

The University and the Residential Life programs have adopted the following regulations on the use of the residential computing network:

1. ResNet services, equipment, wiring or jacks may not be altered, nor extended beyond the location of their intended use.
2. The residential network may not be used to provide access to University Information systems for purposes other than those that are in direct support of the academic program of the University. The residential network may not be used to provide access to the Internet by anyone not formally affiliated with the University.
3. Any receipt, retransmission or destruction of software or data must observe copyright laws, license restrictions and University policies.
4. Viewing, copying, altering or destroying any file, or connecting to a host on a network without explicit permission of the owner is a violation of this policy.
5. The University's networks are shared resources. Excessive use of network resources which inhibits or interferes with the use of these networks by others is not permitted.
6. The residential network may not be used for commercial or profit-making enterprise. Use of these resources for commercial gain is in opposition to the non-profit status of the University.
7. Users may not share University system passwords, use another person's account, even with permission, or allow use of an established connection by someone other than the registered user.
8. Users may not forge or otherwise misrepresent another's identity through any form of communication.
9. Users may not use ResNet to attempt to circumvent protection schemes or exercise security loopholes in any computer or network component.
10. Users who administer computers on ResNet that are used as servers have the additional responsibility to respond to any use of their server that is in violation of this Acceptable Use Policy. Server administrators must take steps to prevent recurrence of such violations and report these violations to the ResNet Administrator.
11. University network resources may not be used to defame, harass, intimidate, or threaten any other person(s). University harassment policies cover all uses of ResNet, including e-mail correspondences and news groups.
12. All approved ResNet users (e.g. students, administrative staff, faculty, Faculty in Residence, spouses, and children) are expected to abide by all guidelines mentioned herein when using these resources.

Violations of this Acceptable Use Policy will be adjudicated, as appropriate, by the Center for Student Conflict Management and the University Computing Center. Responses as a result of violations of these regulations may result in the following:

- Loss of access privileges
- University conduct responses as prescribed by student, faculty or staff behavioral codes
- Monetary reimbursement to the University or other appropriate sources
- Prosecution under applicable civil or criminal laws

Further information on the ResNet Acceptable Use Policy or to report problems or violations, you can contact Residential Life, the Center for Student Conflict Management, or the University Computing Center.

### **SOCIAL NETWORKING WEBSITES**

The University does not monitor the internet for content. When we have knowledge of an allegation that the law or a University policy may be violated, we will investigate such allegations. Students may be held accountable for violations of law or University policies that are revealed during such an investigation.

Social networking sites present unique circumstances for their users, but do not necessitate a deviation from the policies and practices that guide the University community's use of the internet. Students are advised to be aware that the information they post on these sites may be seen by their relatives, their faculty, their future employers, etc. Just as the University does not monitor students' postings for content, it makes no effort and, in fact, can make no effort to control access to any student's information or postings on social networking sites.

### **ADDITIONAL COPYRIGHT INFRINGEMENT ("FILE SHARING") INFORMATION**

Sharing copyrighted works without the copyright owner's permission, also known as file sharing, is illegal and a violation of University policy. Copyrighted works may include songs, films, television shows, video games and other software, and other original creative works. Copyright holders can find out exactly what files are shared from your computer through peer-to-peer file sharing programs like BitTorrent and Limewire, and many college students have paid thousands of dollars to settle civil suits brought by copyright holders. Students have the responsibility to know the law and University policy on downloading and distributing copyrighted files. Specific information is located at <http://tech.rochester.edu/security/copyright-file-sharing/>.

Copyright infringement can result in civil and criminal penalties:

- **Civil:** A copyright holder can sue to recover **either** (1) his actual damages (e.g., lost sales revenue) or (2) "statutory damages," which generally can range from \$750 to \$30,000 per work (e.g. song) infringed, and up to \$150,000 per work if the infringement is judged by a court to have been willful. The infringer can also be required to pay the copyright holder's attorney fees in addition to statutory damages.
- **Criminal:** a person who infringes copyright willfully **either** (1) for financial or commercial gain or (2) by reproducing or distributing works, during a 180-day period, with a total retail value of \$1,000 or more, can face fines up to \$100,000 and a prison term of up to one year.

Copyright infringement can result in University action separate from the legal ramifications above. University action may include, but not be limited to, any one or more of the following:

- Termination of user privileges
- Disciplinary Probation
- Community Restitution
- Fines
- Suspension or Expulsion from the University of Rochester

## STUDENT SEXUAL MISCONDUCT POLICY

### I. Introduction

- A. Prohibition of Sexual Misconduct. Sexual Misconduct, including sexual assault and other forms of discrimination on the basis of sex, is unacceptable behavior and is subject to discipline by the University of Rochester. The University of Rochester takes all complaints of this nature very seriously. This Policy describes the prohibited behaviors, explains the procedures for addressing complaints, sets forth possible sanctions, and provides information about the rights of, and the resources available to support, individuals who believe that a University of Rochester student has engaged in Sexual Misconduct.

Sexual Misconduct includes discrimination based on sex, sexual orientation, and gender identity or expression in compliance with Title IX of the Education Amendments of 1972 and other laws and policies. Examples of Sexual Misconduct include sexual harassment, pregnancy discrimination, sexual assault, dating and domestic violence and stalking.

Retaliation for complaining about Sexual Misconduct or participating in an investigation or a hearing involving a complaint of Sexual Misconduct is also prohibited, and will be considered a violation of (and adjudicated pursuant to) this policy if perpetrated by a student. Clear definitions of behaviors prohibited by this policy are included in Section below. This policy addresses Sexual Misconduct by students. Harassment and discrimination complaints not related to sex, (e.g., harassment on the basis of race, religion, disability, etc.) will be addressed pursuant to the Standards of Student Conduct procedures (if the alleged behavior was committed by a student) or by University policy 106 (if the alleged behavior was committed by faculty, staff or visitors).

The New York State Student Bill of Rights concerning Sexual Misconduct can be found in Appendix D to this policy.

- B. Response to Reports of Sexual Misconduct:

Students, faculty, staff members, visitors and others who believe that a University of Rochester student has committed Sexual Misconduct are encouraged to report the incident to University Public Safety or another Responsible Employee.<sup>8</sup> After a report is made to a Responsible Employee, he/she/they report it to the Title IX coordinator. The reported victim is offered support in such areas as obtaining medical care or counseling and assistance with making a police report if desired. The University may also take interim steps to protect that individual and/or the community, which can include removing the accused student from campus or other actions deemed appropriate under the circumstances. A disciplinary action may follow, which would involve an administrative hearing on campus. More specific information about the response to reports of Sexual Misconduct can be found below.

Options for students who may experience Sexual Misconduct are described in detail in Appendix C to this policy, as well as throughout the policy itself.

- C. Title IX Coordinator:

Morgan Levy serves as the University's Title IX Coordinator. Ms. Levy oversees and provides leadership for the staff members who carry out investigations, compliance-related responsibilities and reporting of Sexual Misconduct. In addition to Ms. Levy, deputy Title IX Coordinators have been designated in each of the schools of the University. Any student, applicant, faculty or staff member who has concerns about Sexual Misconduct is encouraged to seek the assistance of Ms. Levy or a school's Deputy Title IX Coordinator. Ms. Levy can be reached by phone at 585.275.7814 or email at [TitleIX@Rochester.edu](mailto:TitleIX@Rochester.edu). Please see Appendix V for contact information for each of the Deputy Title IX Coordinators.

- D. Application of this Policy to Off-campus Behavior:

The University may investigate and respond (in accordance with this policy) to complaints of Sexual Misconduct by students that is reported to have occurred either on or off campus. Students may be subject to discipline for off campus conduct if it is associated with a University activity or raises considerable concerns that the individual or group poses a threat to the safety or welfare of the University community.

---

<sup>8</sup> A definition and list of Responsible Employees is included below on page 43.

E. Distinction from Criminal Law:

Some of the prohibited behaviors described in this policy are also violations of criminal law. When the University responds to a complaint under this policy it investigates and, if appropriate, issues sanctions using the standards described in this policy. There are significant differences between the standards for findings of a violation of this policy and the standards required for a determination of guilt under criminal law.

II. **Important Definition: Consent**

As used in this policy, consent refers to Affirmative Consent. **Affirmative Consent** is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity or gender expression. Whenever the word "consent" is used in this policy, it should be understood to mean affirmative consent as defined here.

There are several important principles to keep in mind:

- Relying solely upon non-verbal communication can lead to miscommunication. It is important not to make assumptions and if confusion or ambiguity on the issue of consent arises anytime during the sexual interaction it is essential that each person stops and clarifies, verbally, willingness to continue.
- Consent to any sexual act or prior consensual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is **incapacitated**, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual cannot otherwise consent. Depending upon the degree of intoxication, someone who is under the influence of alcohol, drugs or other intoxicants may be incapacitated and therefore unable to consent.

Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, lack of awareness of circumstances or surroundings, or the inability to communicate for any reason. Among other circumstances, individuals may experience a blackout state in which they appear to be giving consent, but do not actually have conscious awareness or the ability to consent. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication.

When a person's incapacitation is in question, the relevant standard that will be applied is whether the individual(s) knew, or a sober reasonable person in the same position should have known, that the other party was incapacitated and therefore could not consent to the sexual activity.

- Consent cannot be given when it is the result of any coercion, intimidation, force or threat of harm.
- When consent is withdrawn or can longer be given, sexual activity must stop.
- According to New York State law, an individual cannot give valid consent if the individual is under 17 years old.



### III. Prohibited Behaviors<sup>9</sup>

The following behaviors are prohibited by this policy, and if engaged in by any student, may result in discipline. Throughout this policy, the term “Sexual Misconduct” shall be used to refer to any or all of the acts defined below.

A. **Sexual Harassment** is (1) any unwanted verbal, visual, written, electronic or physical conduct, of a sexual nature (2) that is intended to cause or could reasonably be expected to cause an individual or group to feel intimidated, demeaned, abused or fearful or have concern for their personal safety (3) because of their sex, sexual orientation, or gender identity or expression or because of their perceived or actual affiliation or association with individuals or groups identified by such characteristics. Sexual harassment prohibited under this policy can be classified as either hostile environment sexual harassment or quid pro quo sexual harassment.

- a. **Hostile Environment Harassment:** A hostile environment based on sex, sexual orientation, or gender identity or expression exists when the conduct:
- is sufficiently *severe or pervasive* (meaning that the conduct is either of an extraordinarily severe or egregious nature or has been repeated with sufficient frequency or continually); in other words, typically a single offense or occasional, episodic instances of offensive behavior will not qualify as sufficiently severe or pervasive, but a single egregious offense (e.g., sexual assault) would, *and*
  - objectively and subjectively has the effect of
    - unreasonably interfering with an individual’s work or equal access to education or
    - creating an intimidating, intolerable, or offensive work or academic environment.

Mere offensiveness is not enough to create a hostile environment.

In determining whether harassment has created a hostile environment, the University will consider not only whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as violating this policy. Also, the following factors will be considered:

- The degree to which the conduct affected one or more students’ education or individual’s employment;
  - The nature, scope, frequency, duration, and location of incident or incidents;
  - The identity, number, and relationships of persons involved;
  - The nature of higher education.
- b. **Quid Pro Quo Harassment:** Quid Pro Quo harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a University activity:
- are conditioned upon, either explicitly or implicitly, submission to unwelcome sexual advances or requests for sexual favors, or
  - such submission is a factor in decisions affecting that individual’s employment, education, living environment, or participation in a University program or activity.

Sexual harassment can take many forms:

- It can occur between equals (e.g., student to student) or between persons of unequal power status (e.g. student leader to first-year student). Although sexual harassment often occurs in the context of an exploitation of power by the individual with the greater power, a person who appears to have less power in a relationship can also commit sexual harassment (e.g., student harassing faculty member).

---

<sup>9</sup> For information regarding New York state definitions of some of the terms used in this policy please see the “Think Safe” document produced by University DPS and located online at [http://www.publicsafety.rochester.edu/2016\\_ThinkSafe.pdf](http://www.publicsafety.rochester.edu/2016_ThinkSafe.pdf). The University’s definitions of sanctionable conduct may be different than state law.

- It can be committed by an individual or may be a result of the collective actions of an organization or group.
- It can be committed against an individual, an organization or a group.
- It can be committed by an acquaintance, a stranger, or someone with whom one has a personal, intimate or sexual relationship.
- It can occur by or against an individual of any sex, gender identity, gender expression or sexual orientation.
- It does NOT have to include intent to harm, be directed towards a specific individual, or involve repeated incidents.

The following types of behavior may constitute sexual harassment:

- Unwanted comments about an individual's body, clothing or lifestyle that have sexual implications or demean the individual's sexuality or gender;
- Unwanted sexual flirtations, leering or ogling;
- Unwanted sexual advances and propositions;
- Unwanted display of sexually demeaning objects, pictures or cartoons in areas visible to other members of the University community;
- Threats or insinuations that an individual's refusal or willingness to submit to sexual advances will affect the individual's terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a University activity;
- Unwanted and intentional sexual touching, patting, pinching, or brushing another's body or clothing;
- Stalking in person or by electronic means;
- Dating or domestic violence;
- Sexual assault.

For additional examples, please see appendix B.

- B. **Sexual Violence** is a type of sexual harassment. It includes sexual assault, sexual exploitation, dating or domestic violence, and stalking.
- **Sexual Assault.** Consistent with federal law, the University defines sexual assault as including:
    - Actual or attempted sexual contact, however slight, with another person without that person's consent. Sexual assault includes, but is not limited to:
      - a. Involvement in any sexual contact with the victim is unable to consent;
      - b. Intentional and unwelcome touching of, or coercing, forcing, or attempting to force another person to touch a person's intimate parts (defined as genital area, anus, groin, inner thigh, buttocks, or breast), including over a person's clothing;
      - c. Sexual intercourse without consent, including acts commonly referred to as "rape." This includes penetration of vagina or anus with a body part or object and forced oral sex.
      - d. Statutory Rape: Non-forcible sexual intercourse with a person who is under the statutory age of consent. In New York, the statutory age of consent is 17 years old.
- C. **Dating or Domestic Violence** is abuse or violence by a person against another with whom the person is or was engaged in an intimate, romantic or family relationship, which causes or could reasonably be expected to cause significant physical, emotional or psychological harm. Dating or Domestic Violence includes:
- Battering that causes bodily injury;
  - Purposefully or knowingly causing reasonable fear of bodily injury;
  - Emotional abuse creating fear of bodily injury or property damage;
  - Repeated communication through any means, anonymously or not, with intent to intimidate, terrify or threaten.
- D. **Sexual Exploitation** occurs when a person takes non-consensual, sexual advantage of another for one's benefit or the benefit of another party. Examples of sexual exploitation include but are not limited to observing or recording others engaged in sexual or private activity (such as undressing or showering) without the consent of all involved; or taking intimate pictures of another and then distributing the pictures to others without the photographed person's consent or in a way that exceeds the bounds of consent; or exposing one's genitals in non-consensual circumstances; or engaging in sexual activity with another while knowingly infected with a sexually transmitted disease (STD) without informing the other person of such infection.

- E. **Stalking** is conduct directed at a specific person that would cause a reasonable person to fear harm to his/her/their health or safety, or that of a person he/she/they are close to, such as a friend or family member, or suffer substantial emotional distress. Stalking, when committed on the basis of sex, is a form of sexual harassment.
  - o Stalking behaviors can include but are not limited to the following:
    - a. Non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, texts, written letters, gifts, or other communications that are undesired by the recipient;
    - b. Pursuing, following, waiting or showing up uninvited at or near a residence, workplace, classroom, or other place frequented by the victim;
    - c. Surveillance, including by the use of technology, or other type of observation, including staring or “peeping”;
    - d. Gathering information about an individual from friends, family co-workers, or devices
- F. **Retaliation** is any adverse action taken by a member of the University community against a person because of the person’s participation in a complaint or investigation of Sexual Misconduct that is intended to, or could reasonably be expected to, dissuade a reasonable person from making a claim or participating in an investigation in the future.
- G. **Aiding or facilitating** is any action or course of action that assists, promotes or encourages the commission of a violation under this policy. Aiding or facilitating may also include failing to take action to prevent an imminent act when it is reasonably prudent and safe to do so. Taking action may include direct intervention, calling Public Safety or local law enforcement or seeking assistance from a person in authority.
- H. **Failing to Control Guests.** Students’ failure to take reasonable steps to prevent their guests from violating the code of conduct may result in those students being charged for a violation of this policy.

#### IV. **Reporting Statement**

The University can only act to prevent Sexual Misconduct from reoccurring in the future, and to remediate such conduct that has occurred, if it is made aware of such conduct. The University encourages individuals to report incidents of Sexual Misconduct so steps can be taken to remediate and prevent such conduct from occurring again. All members of the University community are encouraged to report any instances or claims of Sexual Misconduct, to the Title IX Coordinator. Responsible Employees who receive or learn of reports or concerns of Sexual Misconduct as defined within this policy **must promptly** (as soon as practical and no later than 48 hours) report to the University Title IX Coordinator.

Responsible Employees at the University of Rochester include professional and student staff members in the Office of Residential Life, including resident advisors (RAs), community assistants (CAs), graduate head residents (GHRs), graduate community assistants (GCAs) and graduate housing assistants (GHAs). Other Responsible Employees include University Public Safety, the professional staff members in student life offices in each of the University’s schools, and the Deputy Title IX Coordinators at each school and within the Department of Athletics.

No employees other than those listed here have the role and authority to respond to and correct Sexual Misconduct.

#### V. **Reporting Options and Confidentiality**

As a community, we believe it is imperative that students are able to access support services offered by the University even if they do not wish to formally report the incident to the University. You have the opportunity to speak with someone who can answer questions about something you experienced or observed and discuss options for moving forward without fear that doing so will automatically set into motion a formal investigation. In order to make the best decision about where to go for this conversation, it is important that you understand the places on campus where you can speak with full confidentiality and the places that can offer privacy; as well as the difference between the two.

##### A. **Confidential Resources:**

Individuals who are *confidential* resources will not report information to law enforcement or college officials without your permission, except in extreme circumstances, such as a health and/or safety emergency,

imminent threat to self or others, or where there is mandatory reporting of suspected child abuse. Accordingly, sharing information with a confidential resource will not result in a report to the University, an investigation, or disciplinary action. In order to initiate an investigation or disciplinary action, a report must be made through one of the non-confidential options described in this policy.

Confidential Resources are not required to report the details of an incident to the Title IX Coordinator, however, they are asked to submit a **proxy report** with information regarding the date, time and location of the incident as well as the type of conduct that occurred. The proxy report does not need to include any personally identifiable information regarding the individuals involved in the incident.

Honoring your request for confidentiality may limit our ability to meaningfully investigate and pursue disciplinary action against an accused individual.

There are two types of Confidential Resources available to you: University and Off-Campus.

1. **University Confidential Resources include:**

- **University Counseling Center:** 585-245-3113

- **River Campus Office (585) 275-3113**

- Third Floor, UHS building  
738 Library Road

- Susan B. Anthony Circle

- **Eastman School Office (585) 275-3113**

- ESM Living Center, Room 107

- A limited number of appointments available.

- Call (585) 275-3113 to schedule an appointment.

- <https://www.rochester.edu/ucc/contact/index.html>

- **University Health Service:** Licensed medical professionals acting in accordance with their professional responsibilities: 585-275-2662

- **UHS River Campus Office**

- **Phone: 585-275-2662**

- 1st Floor, UHS Building

- 738 Library Road, River Campus

- **UHS Medical Center Office**

- **Phone: 585-275-2662**

- Room 1-5077, UR Medical Center (The entrance is at 250 Crittenden Blvd.)

- **UHS Eastman School Office**

- **Phone: 585-274-1230**

- Room 106, ESM Student Living Center

- <https://www.rochester.edu/uhs/contact/LocationHours.html>

- **Non-professional counselors and advocates:** These individuals can also assist you without sharing information that could identify you. At the University of Rochester, this includes:

- **University Chaplains**

- **Phone: 585-275-4321**

- 500 Wilson BLVD

- <https://www.rochester.edu/chapel/communities.html>

2. **Off-campus Confidential Resources include:**

- Off-campus counselors and advocates: RESTORE, 1-800-527-1757. Crisis services offices will generally maintain confidentiality unless you request disclosure and sign a consent or waiver form. More information on an agency's policies on confidentiality may be obtained directly from the agency.
- Local Sexual Assault Nurse Examiner (SANE) hospitals and programs: Strong Memorial Hospital, Rochester General Hospital

- Off-campus healthcare providers: Strong Memorial Hospital, Rochester General Hospital

Note that medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or administered. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. More information may be found here: <https://ovs.ny.gov/sites/default/files/brochure/ovs-brochure-final-web.pdf>, or by calling 1-800-247-8035. Options are explained here: <https://ovs.ny.gov/help-crime-victims> .

#### B. **Privacy versus Confidentiality**

Even UR offices and employees who are not Confidential Resources will maintain your *privacy* to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution. A list of offices that can provide private guidance related to sexual misconduct can be found online at <https://www.rochester.edu/sexualmisconduct/resources.html>.

The University will seek consent from you prior to conducting an investigation. You may decline to consent to an investigation, and that determination will be honored unless we determine that failure to investigate may result in harm to you or other members of the UR community. If we determine that an investigation is required, we will notify you and take immediate action as necessary to protect and assist you.

If you disclose an incident to a non-confidential resource, but wish to maintain confidentiality or do not consent to the institution’s request to initiate an investigation, the Title IX Coordinator will weigh your request against our obligation to provide a safe, non-discriminatory environment for all members of our community, including you. The factors to be considered include, but are not limited to:

- whether the accused has a history of violent behavior or is a repeat offender;
- whether the incident represents escalation from previously noted behavior,
- the increased risk that the accused will commit additional acts of violence;
- whether the accused used a weapon or force;
- whether the victim/survivor is a minor; and
- whether we possess other means to obtain evidence such as security footage, and whether the report reveals a pattern of perpetration at a given location or by a particular group.

#### C. **Public Awareness/Advocacy Events**

If you disclose a situation through a public awareness event such as “Take Back the Night,” candlelight vigils, protests, student organization or other event or forum, or other public event, the UR is not obligated to begin an investigation. UR may use the information you provide to inform the need for additional education and prevention efforts.

#### D. **Institutional Crime Reporting**

Reports of certain crimes occurring in certain geographic locations will be included in the UR Clery Act Annual Security Report in an anonymized manner that neither identifies the specifics of the crime or the identity of the victim/survivor.

### VI. **Interim Protective/Mitigating Measures**

We will assist you with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of your reporting choices based on the following analysis:

- a. If it could improve safety
- b. Prevent retaliation
- c. And/or avoid an ongoing hostile environment

We also may take proactive steps, such as training or awareness efforts, to combat sexual violence in a general way that does not identify you or the situation you disclosed. In addition, students accused of Sexual Misconduct may be subject to other interim actions, such as summary suspension. The University’s policy on Interim Actions and Other Restrictions is at page 18 of the Standards of Student Conduct.

Interim measures may include:

- **Issuing Active Avoidance Orders:** If a student's presence on campus poses an actual or perceived threat to your physical or emotional safety and well-being and/or sense of personal safety and security, the University can issue an Active Avoidance Order (AAO). Information about AAOs can be found in the Active Avoidance Policy at page 15 of the Standards of Student Conduct.
- **Helping Coordinate Alternative Housing, Transportation, and Classes:** The University will discuss alternative housing, transportation to and from campus, and classes when that support is appropriate.

## VII. **Medical Amnesty and Sexual Misconduct**

The health and safety of every student at the University of Rochester is of utmost importance. The University of Rochester recognizes that student who have been drinking and/or using drugs (whether the use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University of Rochester strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institutional officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to University of Rochester officials or law enforcement will not be subject to the University of Rochester's code of conduct action for violations of the alcohol and/or other drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking or sexual assault.

## VIII. **Advisors**

Any student who wishes to speak with anyone at the University regarding an incident of Sexual Misconduct has the right to be accompanied by an advisor of choice (at the party's own expense, if the advisor is a paid advisor) who can assist and advise throughout the student Sexual Misconduct hearing process, including during all meetings and hearings related to such process.

While all advisors are welcome, the following requirements and prohibitions apply during meetings and hearings:

- The advisor is there to provide support to the student and not to advocate for him/her/them. Accordingly, advisors may not speak during the hearing process. Advisors may not question witnesses, speak to the board, or make statements or arguments.
- Advisors may confer quietly with their advisee on occasion, but if there is a need for an extended discussion, the student should ask for a break in the proceedings.
- Advisors may not direct the student how to answer a question. Advisors may not confer with their advisees or write notes to them when a question to them is pending-students should provide their own response to the question, not the response their advisor believes would be best.
- As this process is not a legal process, formal rules of evidence do not apply. Objections to questions or evidence are not permitted.
- Advisors generally should conduct themselves quietly and professionally and must not disrupt the proceedings.

If an advisor is not adhering to these or other ground rules of any proceeding, then the advisor may be removed from the proceeding and the proceeding will continue without opportunity for the party to secure a new advisor. Proceedings will not be delayed or adjourned based on the unavailability of a party's desired advisor.

## IX. **Conduct Process for Sexual Misconduct**

The University's judicial officer, who works within the Office of the Dean of Students (ODOS), is responsible for adjudicating complaints of Sexual Misconduct by students. The judicial officer may designate another staff member to perform the duties of the judicial officer at any time. Any time the term "judicial officer" is stated in this document it should be interpreted to mean judicial officer or designee.

In consultation with the Title IX Coordinator, the judicial officer determines whether or not an administrative hearing is an appropriate response to the complaint after reviewing the investigative reports prepared by DPS.

Upon this review the judicial officer decides whether or not there is sufficient cause to initiate the conduct process or pursue alternative means for resolution. The judicial officer may:

- A. Dismiss the complaint;
- B. Decide that the complaint can be processed through informal means of resolution, such as mediation. NOTE: mediation or other informal dispute resolution processes are not available in those cases where the allegation includes sexual violence, including sexual assault, dating violence or domestic violence; or
- C. Decide that the complaint contains reasonable grounds to believe that the University's policies, rules, or regulations have been violated and charge the student, on behalf of the University, accordingly. If this action is taken, the process is explained below.

#### **A. Timeline**

**Timeline for process:** When a student requests that the University investigate and respond to a report of Sexual Misconduct, DPS will begin an investigation which typically takes approximately two weeks to complete. The judicial officer requests a meeting with the involved students within two business days of receiving the final investigative report from DPS. If an administrative hearing is necessary, students receive two weeks advance notice of the hearing date. The total expected timeline from time of report to outcome is typically 4 weeks but the process may take longer to complete.

If a report has been filed with both an outside police agency, and the University, the University will generally continue to investigate and, if appropriate, conduct a hearing pursuant to this policy without regard to the timing or progress of the criminal proceeding. However, in some cases, the University may delay temporarily its internal processes while a law enforcement investigation is ongoing. Such delays will not last more than ten days except when law enforcement authorities specifically request and justify a longer delay.

#### **B. Order of Conduct Process**

1. **Initial Meeting(s):** When a student is reported to have engaged in behavior that violates this Policy, the judicial officer reaches out to the student and schedules an initial meeting. During this meeting the student has the opportunity to read available reports and share his/her/their perspective about what happened.
  - a. During this meeting the judicial officer may work with the student to determine whether or not the student accepts responsibility for the possible policy violation. If the student accepts responsibility, and the declarant<sup>10</sup> agrees to resolve the issue without a hearing, the complaint can be resolved at that time. If a student needs to participate in a formal conduct hearing, a pre-hearing conference meeting can be scheduled.
2. **Pre-Hearing Conference Meeting(s):** The judicial officer meets with the declarant and the respondent separately to provide and explain the hearing notification letter which outlines the charges to be addressed in the hearing and to discuss the date, time and location of the hearing. The hearing date is generally no less than 2 weeks from the issuance of this notification letter. During this meeting the judicial officer also explains the hearing process in detail, answers any questions and provides access to the relevant investigative reports prepared by DPS for the process. The judicial officer also explains deadlines for submitting evidence and names of potential witnesses (typically this information is due one week prior to the hearing). Please note that character witnesses are not permitted in hearings.
3. **Hearing:** Sexual Misconduct hearings can use multiple forums as determined by the judicial officer: (a) video conference from multiple locations either on campus or away from campus (b) private conference room spaces on campus (c) audio only phone conference. No matter the forum for the hearing, respondents and declarants shall never communicate directly to each other or see each other; all hearings are chaired by the judicial officer along with at least one additional University administrator chosen by the judicial officer who has received annual training on issues related to acts of sexual or gender-based

---

<sup>10</sup> In the conduct process, students who are alleged to have violated the Sexual Misconduct policy are referred to as "respondents" and individuals who have reported that they have been victim of behavior that violates the Sexual Misconduct policy are referred to as "declarants".

misconduct, including how to conduct an investigation and hearing process in a way that protects the safety of the declarant and promotes accountability, the effects of trauma, impartiality, the rights of the respondent (including the right to a presumption that the respondent is not responsible until a finding of responsibility is made pursuant to this policy), and applicable University policies and procedures.

Through an objective and fair process guided by the fundamental fairness standards below, the judicial officer determines (a) whether, based on a preponderance of evidence (whether it is more likely than not), a violation occurred and (b) appropriate sanction(s) for a finding of responsibility.

4. **Post Hearing Meeting:** After the hearing the judicial officer will communicate with the respondent and declarant to discuss the outcome of the hearing and share information about how to submit an appeal. <sup>12</sup>

### **C. Fundamental Fairness in Hearing Process**

The fundamental fairness points outlined below apply to all students who participate as declarants or respondents in Sexual Misconduct hearings to determine whether the Sexual Misconduct policy has been violated.

1. All charges must be in writing and presented to the respondent and declarant at the time of notification of the hearing.
2. The notice of charges shall include a reference to the specific provision(s) of this policy alleged to have been violated and the possible sanctions. This notice shall also include, to the extent known, the date, time, location and factual allegations concerning the alleged violation.
3. The respondent and declarant shall be informed of their rights in the pre-hearing conference meeting with the judicial officer.
4. Except in cases where a hearing is required, the respondent and declarant will generally be offered the opportunity to resolve the case through a responsible option. Once a responsible option has been offered each party will be afforded two (2) days to inform the judicial officer whether he/she/they wish to resolve the complaint without a hearing.
5. If a hearing will be held the respondent and declarant shall typically be afforded at least 14 days' notice of the hearing date in writing; however, the judicial officer may extend or shorten time lines to accommodate the academic calendar or other extenuating circumstances.
6. Relevant reports, documents and other evidence may be shared with the respondent and declarant electronically or will be made available for review in the Center for Student Conflict Management prior to the hearing, in the judicial officer's discretion. These materials may not be duplicated by anyone other than the judicial officer. New information may not be submitted after the case file is closed which normally occurs 7 days prior to the hearing, unless extraordinary circumstances have prohibited the inclusion of such information within the standard timeline.
7. The respondent and declarant shall each have the right to be accompanied by an advisor of their choice as described in Section VIII of this policy. Names of potential advisors who are well informed about conduct procedures are available from the Center for Student Conflict Management. Respondents and declarants are strongly encouraged to choose an advisor knowledgeable in the conduct process.
8. The respondent and/or declarant will participate in the hearing while seated in separate hearing rooms connected electronically (unless both parties agree otherwise) in order to allow full participation of the parties.
9. Hearings are recorded. A recording of the hearing will be available for review by the parties and their advisors in the event of an appeal, and shall otherwise be maintained and available for review by the parties for a period of not less than five years after the hearing. The recording remains the property of the University and will not generally be released outside the University.
10. The respondent and declarant shall each have the opportunity to answer questions and to submit the testimony of material witnesses on his/her/their own behalf. Relevant witness statements, public safety reports, residential life incident reports, and depositions shall be acceptable as documentation submitted to a board. All other documentation is subject to review by the judicial officer prior to the time of the hearing. Copies will not be released.
11. All relevant evidence and testimony, including the relevant security reports, the text of statements made by the respondent and declarant prior to the hearing, and any relevant physical evidence shall be available to both respondent and declarant for potential use at the hearing; however, legal rules of evidence shall not apply. The judicial officer will have discretionary authority to determine whether particular questions, evidence or information will be accepted or considered, including whether a particular witness will or will not be called and, if called, the topic(s) that the witness or the parties will be permitted to address.



12. The declarant and the respondent shall have the right to exclude their own prior sexual history with persons other than the other party and/or their own mental health diagnosis and/or treatment from admission in the hearing for purposes of determining responsibility. Past findings of violations of this and other institutional policies (including violations involving Sexual Misconduct) may be considered for sanctioning purposes.
13. The respondent and declarant shall have the opportunity to question (indirectly or directly as determined by the judicial officer) all witnesses present during the hearing. This does not necessarily include the right to confront witnesses in person.
14. The respondent and declarant will be given an opportunity to make impact statements which will become part of the case record to be reviewed by the judicial officer and by any panel considering an appeal.
15. The respondent and declarant as well as all other participants are expected to cooperate during the hearing and be truthful in their testimony and responses to questions. A respondent may choose to refrain from providing testimony or answering questions; however, he/she/they may not then provide a statement on his/her/their own behalf. If a respondent or declarant does not attend a hearing or declines to give testimony or answer questions, the hearing board shall consider the available evidence and decide the case based on consideration of that evidence.
16. The judicial officer shall determine whether it is more likely than not (i.e., by a preponderance of the evidence) that the respondent violated the student Sexual Misconduct policy.
17. The judicial officer will notify the respondent and the declarant of the outcome (including the rationale for the decision and sanctions (if any), and any findings of fact) simultaneously in writing.<sup>11</sup>
18. The respondent and declarant have the right to appeal a final decision to the appeal panel (see below).
19. Both the respondent and the declarant will be informed of the outcome of the hearing and the outcome of any appeal without a commitment to protect the confidentiality of the information. It shall be the decision of each party whether that party will disclose or discuss the outcome of the hearing and/or the appeal.
20. The judicial officer has discretion to modify, expand, or clarify these standards and any other aspect of the conduct process, depending on the circumstances.

#### **D. Potential Sanctions**

Typical sanctions for Sexual Misconduct may include disciplinary probation, active avoidance orders, prohibition from various areas and events, and educational assignment to expulsion from the University. Students responsible for assaulting another person should expect, minimally, to be suspended from the University; in many cases, expulsion will result. The full range of other commonly-used sanctions at the University, some of which may be used in cases of Sexual Misconduct, is detailed in the Standards of Student Conduct.

Note about Transcript Notations: As required by law, transcripts of students found responsible for certain Sexual Misconduct violations and suspended or expelled will bear a notation indicating that finding and sanction. The full Transcript Notification Policy can be found on [page 16](#) of this document.

#### **E. Appeals**

##### **1. Grounds for Appeal**

Appeals are heard by a panel of three staff members who have received training similar to what hearing board members receive. Information regarding how to submit an appeal is provided in the decision letter at the conclusion of the hearing process. An appeal is intended to provide an opportunity to consider previously overlooked, exceptional, or unfair circumstances pertinent to the case. It is not intended to be a rehearing of the events presented at the original hearing.

The only grounds on which an appeal can be made are:

- a. The sanction was not appropriate
- b. New information exists that was not available at the time of the hearing and this information is sufficient to alter the decision
- c. A procedural error occurred during the process that is substantive enough to alter the decision.

---

<sup>11</sup> If the respondent is a student in SMD or SON, the judicial officer will disclose the findings, recommendations, and relevant case materials to the appropriate disciplinary body within the school in which the student is enrolled. That body will make the ultimate determination regarding the sanction and will communicate the result to the respondent.

## **2. Process of Appeal**

An appeal must be made in writing to the panel as described in the decision letter within the timeline established in the letter officially stating the original decision. Instructions on how to submit an appeal letter are included in the decision letter. The appeal letter should state the grounds on which an appeal is made and what the student believes supports an appeal on those grounds. The appeal panel may review some or all of the material from the original hearing when considering an appeal and may consult with anyone they feel would be helpful in deciding the appeal. The appeal panel is not required to meet with the parties, but if it chooses to meet with either party, it must meet with the other party as well.

When one party to the case appeals the decision, the appeal panel notifies the other party that an appeal has been submitted. The second party has 7 days from this notification to respond to the appeal in writing explaining his/her/their perspective of merit of the issues raised. The appeal panel then responds to both parties with a final determination, typically within 7 days of the submission of all appeal documentation.

## **3. Effect of Appeal**

Both parties receive a written decision from the appeal panel. On appeals, the panel may uphold or modify the decision and/or the sanction (if applicable), or the case may be referred back to the original hearing board or a new hearing board for a new or further hearing. At the discretion of the appeal panel and upon the recommendation of the judicial officer, where appropriate, all or some of the sanctions may be suspended pending the final decision.

## Appendix A

### Title IX Coordinators

University Wide	Morgan Levy, Title IX Coordinator 585-275-7814 <a href="mailto:Morgan.Levy@rochester.edu">Morgan.Levy@rochester.edu</a>
Arts, Sciences and Engineering	Dawn Bruner, Deputy Coordinator 510 Wilson Commons, 585-275-4085 <a href="mailto:Dawn.Bruner@rochester.edu">Dawn.Bruner@rochester.edu</a>
Eastman School of Arts	John Hain, Deputy Coordinator 26 Gibbs Street, 585-274-1020 <a href="mailto:jhain@esm.rochester.edu">jhain@esm.rochester.edu</a>
School of Medicine and Dentistry	Dr. Linda Chaudron, Deputy Coordinator 600 Elmwood Ave, Room 1-4444, 585-276-3782 <a href="mailto:Linda_Chaudron@URMC.Rochester.edu">Linda_Chaudron@URMC.Rochester.edu</a>
School of Nursing	Lydia Rotondo, Deputy Coordinator HWH 4W144/601 Elmwood Ave, ACF 6, 585-275-5693 <a href="mailto:Lydia_Rotondo@urmc.rochester.edu">Lydia_Rotondo@urmc.rochester.edu</a>
Simon School of Business	Karen Platt, Deputy Coordinator 202E Schlegel Hall, 585-275-8041 <a href="mailto:karen.platt@rochester.edu">karen.platt@rochester.edu</a>
Warner School	Brian Brent, Deputy Coordinator 422 LeChase Hall, 585-275-3930 <a href="mailto:bbrent@warner.rochester.edu">bbrent@warner.rochester.edu</a>
Athletics and Recreation	Kristine Shanley, Deputy Coordinator 1115 Goergen Athletic Center 585-275-6277 <a href="mailto:Kristine.Shanley@rochester.edu">Kristine.Shanley@rochester.edu</a>

## Appendix B

The following scenarios illustrate how choices during situations common to college life, can result in a finding of a responsibility for violating our code of conduct. These scenarios were designed to clarify details of the policy and do not reflect the factual complexities and ambiguities that Sexual Misconduct allegations typically include.

- Angelique and Aaron have been in an ongoing relationship for a year-and-a-half and have engaged in consensual sexual intercourse. One night while becoming intimate, Angelique stops and says she doesn't feel like having sex that night. Aaron continues to touch her, saying that she got him excited and it wasn't fair of her to lead him on like that. Again Angelique tells him she does not want to have sex, and then is silent. Aaron decides she has given in, and proceeds to have sexual intercourse with her. *This is a violation of the Sexual Misconduct Policy. Aaron had sexual intercourse with Angela without her affirmative consent. The fact that Angela has freely consented to sexual intercourse with Aaron in the past does NOT mean he has her consent in this situation.*
- Robert and Felix have been flirting with each other all night at a party. Around 12:30 a.m., Felix excuses himself to find a bathroom. Robert notices Felix slurring his speech. Robert wonders if Felix went to the bathroom to vomit. When Felix returns, the two begin flirting more heavily and move to a couch. As the conversation continues, the two become more relaxed and more physically affectionate. Robert soon suggests they go back to his room, and Felix agrees. As they walk down the stairs, Robert notices that Felix looks unstable and offers his arm for support and balance. When they get back to his room, Robert leads Felix to the bed and they begin to become intimate. Felix becomes increasingly passive and appears disoriented. Robert soon begins to have sexual intercourse with him. The next morning, Felix thinks they had sex but cannot piece together the events leading up to it. *This is a violation of the Sexual Misconduct Policy. Felix was clearly incapacitated due to alcohol and thus unable to consent to engage in sexual activity with Robert.*
- Erin is talking to several of her friends in the hallway at a crowded party. Chang, a student she knows from chemistry class, comes up behind her and places his arms around her waist. She says hi to Chang and continues her conversation. After a while, she realized that Chang has moved his hands up to her breasts. She turns to him and tells him to stop, saying she doesn't want to be touched in that way and that he should have more respect for her. He laughs, tells her she takes herself too seriously, and again begins to grope her. This is a violation of the Sexual Misconduct Policy. Chang touched Erin in a sexual way without her consent, and continued to do so after she told him to stop. This behavior is a form of Sexual Misconduct.
- Kalliyian and Noah have been together for six months. She often tells her friends stories of Noah's sexual prowess, and decided to prove it to them. One night, she and Noah engage in consensual sexual intercourse. Without Noah's knowledge, Kalliyian sets up her digital camera to videotape them having sex. The next evening, she uploads the video to an online video-sharing site and discusses it with her friends online. *This is a violation of the Standards of Student Conduct prohibition against sexual exploitation. Noah's consent to engage in sexual intercourse with Kalliyian did NOT mean Kalliyian had obtained his consent to videotape it or broadcast the event to others.*
- John and Myra have been intimate for several days. One night, Myra calls John and asks him to come over. When he arrives, Myra kisses John passionately and leads him into the bedroom. They each express their excitement and desire to hook up, and are soon making out heavily in Myra's bed. After a while, John tries to engage in oral sex with Myra. Myra tells John that she really likes him, but that she doesn't feel ready for that. John tells Myra she's just being shy, and ignores her when she repeats that she doesn't feel ready. John then accuses her of leading him on. Eventually, John proceeds with oral sex, although Myra never gave permission. *This is a violation of the Sexual Misconduct Policy. John did not receive consent from Myra and has committed Sexual Misconduct.*
- Pat and Sam have an interest in each other but have never become intimate because Sam has a boyfriend back home. One night Pat and Sam meet at a party and begin making out on the dance floor. Eventually Sam invites Pat back to the dorm room where they have consensual intercourse. Sam's roommate enters the room and finds Sam and Pat in bed. Sam is distraught over the roommate finding them and fears that Sam's boyfriend back home may find out. Sam contacts the RA and claims there was no consent. *This is not a violation of the Sexual Misconduct Policy because it was reasonable, based on Sam's actions, for Pat to believe that Sam had consented.*
- Jen and Vince have been dating since high school and have had a volatile relationship. Late in the first semester of their junior year, Jen and Vince got into a big argument that involved a lot of yelling and screaming. They left each other late at night agreeing to talk more the following day. The next day, during Jen's first class, she receives 27 text messages from Vince. The messages say things like "leave class now or I will break up with you!" "You won't be able to afford the rent if you break up with me!" "I will tell your mother that you cheated on me." "I think the University would like to know about that big party you held for your sorority. You can't study abroad when you are on probation." Jen is scared and upset about the way Vince is asking and tells him to stop texting

her. Vince continues to text her throughout the day. At night as she is going to bed, she sees him standing outside her residence hall staring up at her window. Jen calls the Public Safety. *This is stalking in violation of the Sexual Misconduct Policy as Vince's behavior would cause a reasonable person to fear harm to his or her health or safety.*

*(Adapted from Duke University's Sexual Misconduct Policy)*

## Appendix C

### What You Can Do if You or Someone Else May Have Experienced Sexual Misconduct

If you or someone you know has experienced Sexual Misconduct the following options, among others described in the Policy, are available. You can:

- **Meet with the University Title IX Coordinator or the Deputy Title IX Coordinator in your school to discuss the support services available to you and your options for filing a report.** The University Title IX Coordinator is Morgan Levy. Ms. Levy can be reached by calling 585-275-7814 or via e-mail at [Morgan.Levy@rochester.edu](mailto:Morgan.Levy@rochester.edu). Please see appendix B for a list of the Deputy Title IX Coordinators at each school.
- **Make a formal report to University Department of Public Safety (DPS) (585-275-3333):** DPS can help you file a formal report to the University about the incident. DPS can also assist you in making a report to the appropriate legal authority (Rochester Police, Monroe County Sheriff's Office, NY State Police etc.) You can choose to simultaneously report the incident to the University and the appropriate law enforcement agency for investigation and response. You can also choose to only report the incident to local law enforcement or only report the incident to the University. If you choose to make a report to the University, DPS investigators will conduct an investigation, as appropriate and under the direction of the Office of the Dean of Student on the River Campus (ODOS). The ODOS is responsible for adjudicating all cases of Sexual Misconduct at the University in which the accused is a student. If they haven't done so already, staff members from ODOS will then connect with you to discuss your options, including steps in the conduct process, resources available to support you, and the planned process for moving forward. Some things the University may be able to help arrange are (in no particular order):
  - **Issuing Active Avoidance Orders:** If a student's presence on campus poses a perceived, threat to your physical or emotional safety and well-being and/or sense of personal safety and security, the University can issue an Active Avoidance Order (AAO). Please see the Standards of Student Conduct section on Active Avoidance Orders for more information about the issuance of AAOs. AAO's are a University document. Should a student have questions or interest in learning about an Order of Protection, they may contact the Department of Public Safety for an explanation of this process.
  - **Helping Coordinate Alternative Housing, Transportation, and Classes:** The University will discuss alternative housing, transportation to and from campus, and classes when that support is appropriate.
  - **Taking Interim Measures:** The University can determine whether interim measures need to be taken to arrange alternative on campus housing or class schedules or remove the student(s) from campus and/or classes or before a hearing can occur. Please see the Standards of Student Conduct section on interim suspensions for more information regarding that process.
  - **Coordinating an Administrative Hearing: When appropriate, the ODOS will call for the complaint to be resolved through the administrative hearing process.** See below for more information about this process.
  - **Filing a report with the appropriate police department.** DPS can help connect you to the appropriate law enforcement agency if you wish to report the incident to the police. Calling 911 to directly connect to local police is an option as well. The police officers who respond may take a report and explain possible legal options including temporary and permanent orders of protections. You can choose to simultaneously report the incident to the University and the appropriate law enforcement agency for investigation and response.
- Any student who wishes to speak with anyone at the University regarding an incident of Sexual Misconduct has the right to be accompanied by an advisor of choice (at the party's own expense, if the advisor is a paid advisor) who can assist and advise throughout the student Sexual Misconduct hearing process, including during all meetings and hearings related to such process. **Have medical needs attended to at Strong Memorial Hospital (601 Elmwood Avenue) or another local hospital:** Students can utilize the hospital for medical attention. DPS can provide transportation.
- **Contact RESTORE (585-546-2777 or <https://restoresas.org/>):** RESTORE provides a 24-hour confidential hotline as well as advocacy support. RESTORE is not affiliated with the University of Rochester and reports made to RESTORE will not be shared with the University without your consent.
- **Confidentially discuss the incident with a counselor at the University Counseling Center (585-275-3113):** University Counseling Center (UCC) can help provide mental health support during a difficult situation 24 hours a day with their on-call counselor and appointments are also available. **Reports made to UCC or UHS are confidential.**

- **File a proxy report:** If you wish to make a report about the incident to the University without including your name or personally identifiable information you may file a proxy report. Proxy reports are used to gather information about the date, type and location of an incident when the student who experienced the incident does not wish to disclose his/her/their identity and/or participate in the investigatory process.  
<https://www.rochester.edu/sexualmisconduct/proxy-report.html>
- **Do nothing:** You may also make it known that you do not want anything to be done with the situation right now. In situations where students indicate that they would not like the University to investigate or respond to the report of the incident the University will most often honor those wishes.<sup>12</sup> There are, however, some circumstances when concerns about the safety of the University community are raised by the report. In those circumstances the University will investigate and respond as appropriate even without the assistance of the person alleged to have been a victim.

---

<sup>12</sup> Please see above for information regarding the criteria the University will use when determining whether or not it will proceed with an investigation without the consent of the reporter. Reports of incidents that give rise to concerns about professional misconduct among medical and nursing students will be investigated and responded to by the University due to professionalism standards in those academic programs.

## RESOURCES

The following community and University of Rochester resources are available for assistance.

1. Rochester Area Resources (these agencies are not obligated to report to the University)
  - Rape Crisis Service Hotline 585-546-2777
  - Rochester Police Department 585-428-7210
  - Rochester Police Department, Victims Assistance 585-428-6630
  - Monroe County Sheriff, Victims Assistance 585-428-5495
  - Monroe County District Attorney's Office Victim's Assistance 585-428-5704
  - Monroe County Health Department 585-733-5391
  - Alternatives for Battered Women (ABW) 585-232-7353
  - Gay Alliance of Genesee Valley (GAGV) 585-244-864, ext. 17
  
2. University of Rochester Resources
  - University Department of Public Safety 585-275-3333
  - Morgan Levy: Title IX Coordinator 585-275-7814
  - Center for Student Conflict Management, 510 Wilson Commons 585-275-4085
  - University Health Service(physician on-call when offices are closed)
    - River Campus Office, UHS Building, 1<sup>st</sup> floor 585-275-2662
    - Medical Center Office, 1-5000area 585-275-2662
    - Eastman School Office, SLC, room 106 585-274-1230
    - University Counseling Center, UHS Building, 3<sup>rd</sup> floor 585-275-3113



**Appendix D**  
**Student Bill of Rights**

Under New York State law, all students have the right to:

1. Make a report to local law enforcement and/or State Police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

## **QUESTIONS ABOUT POLICIES**

For questions about policies, contact the Center for Student Conflict Management (585-275-4085 or [conflict.management@rochester.edu](mailto:conflict.management@rochester.edu)) in 510 Wilson Commons. This office oversees the administration of the policies and the resolution of violations and actively engages in a cooperative effort to educate students and organizations about their responsibilities as members of the academic community.

## **POLICY CHANGES AND UPDATES**

The College reserves the right to modify the policies, procedures, and guidelines contained within this booklet without notice. For information about updates or changes, students can contact the Center for Student Conflict Management (585-275-4085) in 510 Wilson Commons, or view the website at: <http://www.rochester.edu/college/dos/conduct>.

In the event of a policy or procedure change, students will be subject to the policies that were in effect at the time of the violation, however, the violation will be adjudicated using current procedures.

## **ADDITIONAL REGULATIONS**

Regulations listed in this handbook are not all-inclusive. Additional rules and regulations are contained in the Official Bulletins of the University of Rochester, the UR Here Student Handbook, the Residential Community Standards material, the Residential Network Acceptable Use Policy, the Housing/Dining Contract Booklet, Residential Area Handbooks, and other notices from Residential Life and other offices.