

Rio Grande Title IX Program

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Notice of Non-Discrimination Policy

Under Title IX of the 1972 Education Amendments, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity operated by the University of Rio Grande or the Rio Grande Community College (“Rio Grande”). Title IX ensures equal access to those programs and activities for our students and employees of all gender identities.

Rio Grande is dedicated to providing a safe environment for students, faculty, and staff. For that reason, Rio Grande has implemented a comprehensive program to comply with Title IX, and provide an environment free from sex-based discrimination, including sex-based harassment. The Rio Grande Title IX Program sets out the policies against sex-based discrimination, defines prohibited conduct, identifies the Title IX Committee and each team member’s responsibilities, details procedures for the filing and investigation of any formal complaints made by or against students or employees, including potential sanctions, and establishes training and awareness programs. Questions about our Title IX Program may be directed to the Title IX Coordinator at TitleIXCoordinator@rio.edu or (740) 245-7228. To see our complete Title IX Program, visit <http://www.rio.edu/titleix>, the Student Handbook, or the Policy and Procedure Manual.

When Rio Grande has actual knowledge of sexual harassment in its education program or activity against a person in the United States, it must respond promptly in a manner that is not deliberately indifferent. Rio Grande only has actual knowledge, as defined in 34 CFR § 106.30(a), when its Title IX Coordinator or Deputy Title IX Coordinator receives notice of sexual harassment or allegations of sexual harassment. Notice includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator or Deputy Coordinator in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator or Deputy Coordinator, or by any other means that results in the Title IX Coordinator or Deputy Coordinator receiving the person’s verbal or written report. This standard is not met when the only official of the recipient with actual knowledge is the respondent. Alleged misconduct that falls outside the scope of this program may be addressed through other Rio Grande policies and rules, including the Community Code and Residence Life Code, collective bargaining agreements, and Human Resources policies. This Policy is designed to comply with applicable laws and regulations. Rio Grande reserves the right to modify or deviate from this program, when, in its sole discretion, it determines it is necessary to protect the rights of the parties or to comply with Rio Grande’s legal obligations.

Furthermore, Rio Grande’s policies and practices relating to housing, academic and social life, and employment are applied without regard to race, color, sexual orientation, gender, gender identity, religion, disability, age, marital status, national or ethnic origin, ancestry, socioeconomic status, military or veteran status, political affiliation, or other characteristics protected by federal, state, or local law. Questions about this Policy may be directed to the Office of the President.

Policy Against Sex-Based Discrimination

I. Introduction

The University of Rio Grande and Rio Grande Community College (“Rio Grande”) are dedicated to providing a safe environment for all students, faculty, and staff. Sex-based discrimination, including sex-based harassment, will not be tolerated. Any violation of the policies below should be reported to the Title IX Coordinator at TitleIXCoordinator@rio.edu or (740) 245-7228.

II. Policy

No person shall be subjected to sex-based discrimination under any program or activity operated by Rio Grande.

No person may engage in sex-based harassment in or under any program or activity of Rio Grande.¹

No person who is an employee or agent of Rio Grande (including a student employee) may condition a decision or benefit on another’s submission to sex-based harassment (regardless of whether the complainant resists or submits, and regardless of whether the complainant suffers or avoids the threatened harm).

III. Definitions

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. Not everyone who experiences harm will report their experience or identify with the term “Complainant.” Other terms/identities include “survivor” or “victim,” or a person may not identify with any of these terms. Rio Grande uses “Complainant” to be as clear and objective as possible in the Title IX process under current regulations.

Consent is agreement to do or allow something, or permission for something to happen or be done. Consent must be informed, voluntary, and mutual. Consent may be withdrawn at any time.

Consent does not exist when there is *any* expressed or implied force, coercion, intimidation, threats, or duress. Whether a person has taken advantage of a position of influence over another person may be a factor in determining whether consent exists. Coercion: the application of pressure by the respondent that unreasonably interferes with the complainant’s ability to exercise free will.

Silence or absence of resistance does *not* imply consent. Past consent to sexual activity with another person does *not* imply ongoing future consent with that person, or ongoing future consent to that same sexual activity with another person.

Consent cannot be given by a person who is unable to make a reasonable judgment concerning the nature of an activity due to incapacitating intoxication, unconsciousness, youth, or mental deficiency or incapacity.

¹ Rio Grande respects the First Amendment rights of its students, faculty, and staff. Nothing in this Policy will impair the exercise of rights protected under the First Amendment.

Dating violence is defined in 34 U.S.C. 12291(a)(10) as violence, on the basis of sex, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the complainant's statement, and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic violence is defined in 34 U.S.C. 12291(a)(8) as violence, on the basis of sex, committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, or by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of Ohio.

Education program or activity includes locations, events, or circumstances over which Rio Grande exercises substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Rio Grande.

Formal complaint is defined in 34 CFR § 106.30(a) as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the recipient) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party.

Incapacitation means a state in which someone cannot make rational, reasonable decisions because the person lacks the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk. This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

It is a defense to a sexual assault policy violation that the respondent neither knew nor should have known the complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.

It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the complainant. The question of whether the responding party should have known the incapacity is an objective question about what a reasonable person, exercising sober, good judgment, would have known, in the same or similar circumstances.

Report/informal complaint is a verbal or written account of alleged sexual harassment by any person. A report is not a formal complaint and does not initiate the investigation and hearing process.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Sex-based discrimination includes exclusion from participation in, being denied the benefits of, or being subjected to discrimination on the basis of sex.

Discrimination on the basis of sex includes discrimination based on sex, pregnancy status, marital status, sexual orientation, gender, gender identity, gender expressions, and nonconformity with gender stereotypes.

Both students and employees are protected against sex-based discrimination in Rio Grande programs and activities.

Sexual assault is defined in 20 U.S.C. 1092(f)(6)(A)(v) as:

Sex Offenses, Forcible: Any sexual act directed against another person, without the consent of the complainant, including instances in which the complainant is incapable of giving consent because of incapacitation.

Forcible Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant.

Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of incapacitation.

Sexual Assault with an Object: The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of incapacitation.

Forcible Fondling: The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of incapacitation.

Sex Offenses, Non-forcible:

Incest: Non-forcible sexual intercourse, between persons who are related to each other, within the degrees wherein marriage is prohibited by Ohio law.

Statutory Rape: Non-forcible sexual intercourse, with a person who is under the statutory age of consent of 16.

Sexual exploitation occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's consent, including but not limited to:

- Prostituting another person;
- Recording images, whether still or moving, or audio of another person’s sexual activity, intimate body parts, or nudity without that person’s consent;
- Distributing images, whether still or moving, or audio of another person’s sexual activity, intimate body parts, or nudity, if the person distributing the images or audio knows or should have known that the person depicted did not consent to the distribution of those materials; and
- Viewing another person’s sexual activity, intimate body parts, or nudity in a place where that person has a reasonable expectation of privacy and without that person’s consent.

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of Rio Grande conditioning the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Rio Grande’s education program or activity; or
- (3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

Stalking is defined in 34 U.S.C. 12291(a)(30) as engaging in a course of conduct, on the basis of sex, directed at a specific person, that (i) would cause a reasonable person to fear for the person’s safety, or (ii) the safety of others; or (iii) suffer substantial emotional distress. For purposes of this definition, course of conduct means two or more acts, including, but not limited to, acts in which the respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property. Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Student means a person who has gained admission to Rio Grande.

Unwelcome conduct exists when the individual did not request or invite it and considers the conduct undesirable or offensive, including but not limited to name-calling, graphic or written statements (including through the use of cell phones or the internet), or other conduct that may be physically threatening, harmful, or humiliating. Unwelcome conduct does not have to include intent to harm, be directed at a specific person, or involve repeated incidents.

Participation in the conduct or failure to protest does not necessarily mean that the conduct is welcome. The fact that an individual may welcome some conduct does not necessarily mean that he or she welcomes other conduct. Additionally, the fact that an individual requested or invited conduct on one occasion does not necessarily mean that the conduct is welcome on another occasion.

IV. Confidentiality and Reporting

A. No Confidentiality.

Rio Grande has an obligation to provide a safe, non-discriminatory environment for all students and staff. However, if an individual makes a formal complaint, Rio Grande will not be able to maintain confidentiality.

Note that while Rio Grande may maintain an individual's confidentiality under Title IX in the absence of a formal complaint, Rio Grande's staff may be subject to other reporting obligations under state law.

B. Reporting to Rio Grande Employees

Students, employees, subcontractors, guests, and other third parties are encouraged to report any violation of the Policy Against Sex-Based Discrimination to the Title IX Coordinator or Deputy Coordinator. Reporting these incidents will help individuals find useful resources and will help Rio Grande respond appropriately to violations of our policies.

While Rio Grande has many staff members available to hear individuals' reports, we would like to identify the following specific roles that can provide reporters with detailed information about resources, if needed.

1. Professional Counselors

Professional, licensed counselors who provide mental-health counseling to members of the Rio Grande campus community (including any individual who provides mental-health counseling under the supervision of a licensed counselor). Those individuals include:

<i>Director of Mental Well-Being</i>	<i>(740) 245-7439</i>
<i>Hopewell Health (local off-campus counseling agency)</i>	<i>(740) 441-4400</i>

2. Non-Professional Counselors and Advocates

Individuals who work or volunteer in the on-campus Health Services Center. Non-professional counselors and advocates include:

<i>Director of Health Services</i>	<i>(740) 245-7389</i>
<i>Survivor Advocacy Outreach Program</i>	<i>(740) 591-4266</i>

These counselors and advocates will still help complainants and reporters receive necessary protection and support, including survivor advocacy, academic support or accommodations, health and mental health services, and changes to work or course schedules.

C. Supportive Measures and Protection Against Retaliation.

Rio Grande will remain mindful of complainants' and respondents' well-being. We will take ongoing steps to protect complainants and respondents from retaliation or harm and will work with individuals to create a safety plan. Retaliation, whether by students or employees, will **not** be tolerated.

Prior to, at the beginning of, and throughout any investigation, Rio Grande will also provide supportive measures. Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint of sexual harassment or where no formal complaint has been filed. These measures are designed to restore or preserve equal access to Rio Grande's education program and activities without unreasonably burdening either party, including measures designed to protect the safety of all parties, to protect Rio Grande's educational environment, and/or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Rio Grande will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair its ability to provide the supportive measures.

Data Metrics

Rio Grande will collect data from the Ohio Department of Higher Education (“ODHE”) questions for faculty and staff as required by applicable law. Under the Clery Act, Rio Grande must issue timely warning for reported incidents that fall under the definitions of sexual assault, domestic violence, dating violence or stalking and pose a serious or continuing threat of bodily harm or danger to members of the campus community. If possible, Rio Grande will not disclose a complainant’s name and other identifying information, while providing enough information for community members to make decisions regarding their safety. Rio Grande also collects and shares de-identified statistical information regarding reported incidents as required by the Clery Act.

Title IX Committee

I. Introduction

Pursuant to Title IX of the Education Amendments of 1972 and the U.S. Department of Education’s implementing regulations at 34 C.F.R. Part 106, the Rio Grande Title IX Committee has primary responsibility for coordinating efforts to comply with and carry out its responsibilities under Title IX. Title IX prohibits sex-based discrimination in all operations of the University of Rio Grande and Rio Grande Community College (“Rio Grande”), as well as retaliation intended to interfere with any right or privilege secured by Title IX.

Sexual misconduct – including sexual harassment, sexual assault, rape, domestic violence, dating violence, and sexual exploitation – can constitute sex-based discrimination under Title IX. The Title IX Committee oversees the response to formal complaints and reports involving possible sex-based discrimination to monitor outcomes, identify and address any patterns, and assess the campus climate so that Rio Grande can address issues that impact the community as a whole.

II. Reporting to the Title IX Committee

Students and employees should contact a member of the Title IX Committee to:

- Seek information or training about their rights and available courses of action for resolving reports that involve potential sex-based discrimination, including sexual misconduct;
- Notify Rio Grande of an incident, policy, or procedure that may raise potential Title IX concerns;
- Obtain information about available resources and support services relating to sex-based discrimination, including sexual misconduct; and
- Ask any questions about our policies and procedures relating to sex-based discrimination, including sexual misconduct.

To initiate the investigation and hearing process with respect to allegations of sexual harassment, a complainant must file a formal complaint with the Title IX Coordinator. To initiate the investigation and adjudication process with respect to allegations of sex-based discrimination unrelated to sexual harassment, see Policy # 4.10.

The Title IX Committee includes the Title IX Coordinator, the Deputy Title IX Coordinator, and the Chief of Campus Police and other members designated by the Title IX Coordinator Individuals designated by the University as Title IX Coordinators, investigators, decision-makers, or to otherwise

facilitate the investigation and hearing process must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

Title IX Coordinator: The Title IX Coordinator is responsible for overseeing the response to reports and formal complaints. The Title IX Coordinator is also responsible for continually monitoring the campus environment and implementing improvements to our Title IX policy and programs.

Chris Nourse
Bob Evans Farm Hall – Room 237
(740) 245-7228
cnourse@rio.edu

Deputy Title IX Coordinator: The Deputy Title IX Coordinator is also responsible for overseeing the response to reports and formal complaints. The Deputy Title IX Coordinator will work closely with the Title IX Coordinator to ensure a thorough and fair response to all claims of discrimination.

Katie Moleski
Lyne Center – Room 101(740) 245-7492
kmoleski@rio.edu

Chief of Campus Police: The Chief of Campus Police is responsible for overseeing the investigation of criminal allegations. In doing so, the Chief of Campus Police will also serve as the liaison between the Title IX Committee and law enforcement when necessary.

David Dowlen
Campus Police Department
(740) 245-7286
ddowlen@rio.edu

If the incident, policy, or procedure about which a student or employee seeks to file a formal complaint creates the appearance of a conflict of interest (regardless of whether or not there is, in fact, a conflict) with one of the members of the Title IX Committee, that student or employee may contact any other member of the team or notify the Office of the University President or designee.

Ryan Smith
Bob Evans Farm Hall – Room 223
(740) 245-7204
rsmith@rio.edu

Reports that involve potential violations of Title IX may also be referred to the U.S. Department of Education Office of Civil Rights or the U.S. Department of Justice Civil Rights Division Opportunities Section at the following addresses:

Department of Education
Cleveland Office
Office for Civil Rights
U.S. Department of Education
1350 Euclid Avenue, Suite 325
Cleveland, OH 44115-1812

Telephone: (216) 522-4970
TDD: (800) 877-8339
Fax: (216) 522-2573
Email: OCR.Cleveland@ed.gov

Department of Justice

U.S. Department of Justice Civil Rights Division
950 Pennsylvania Avenue, N.W.
Educational Opportunities Section, PHB
Washington, D.C. 20530

Telephone: (202) 514-4092
(877) 292-3804 (toll-free)
Fax: (202) 514-8337
Email: education@usdoj.gov

III. Title IX Committee Responsibilities

A. Training

Rio Grande will ensure that Title IX Coordinators and investigators, the members of the University Hearing Board, decisionmakers, those who consider appeals, and any person who facilitates an informal resolution process will receive training on the definition of sexual harassment; the scope of Rio Grande's education program or activity; how to conduct an investigation and adjudication process including hearings, appeals, and informal resolution processes, as applicable; and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Rio Grande will ensure that the University Hearing Board members receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

Rio Grande will ensure that investigating officials receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Any materials used to train Title IX Coordinators, investigating officials, University Hearing Board members, appeal panel members, and any person who facilitates an informal resolution process will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints of sexual harassment.

The Title IX Committee is also responsible for providing or facilitating ongoing Title IX training, consultation, and assistance for students, faculty, and staff. This includes regular training for faculty and staff outlining their rights and obligations under Title IX. With regard to sexual misconduct, this training will cover at least the following topics:

- What is the appropriate response to reports of sexual misconduct?
- What is the obligation under state law to report certain types of sexual misconduct to appropriate officials?
- Confidentiality
- Trauma-informed training

The Title IX Committee's training responsibilities also include regular training for students outlining their rights under Title IX. This training will cover at least the following topics:

- What constitutes sex-based discrimination.
- What constitutes sexual harassment.
- Consent.
- Reporting options available for students.
- Investigation and hearing procedures used to process formal complaints of sexual harassment.
- Investigation and adjudication procedures used to process other complaints of sex-based discrimination.
- Sexual misconduct in the Community Code.
- Self protection.

- Strategies for bystander intervention.
- The role of alcohol and drugs in sexual misconduct.
- Offices and individuals who can provide support.
- Confidentiality in the reporting process.
- Protection against retaliation.

Consistent with ODHE's requirements, Rio Grande will evaluate the effectiveness of prevention, response, and bystander trainings to identify whether outcome goals are met.

In addition, Rio Grande implements a cohesive awareness campaign.

Further, Rio Grande will continue to operate its Threat Assessment Team.

B. Receipt of Allegations

Upon receipt of information indicating that a complainant may have a complaint or concern regarding sexual harassment, the Title IX Coordinator shall promptly contact the complainant to provide information on supportive measures and the investigative and hearing process.

Complainants may choose whether or not to initiate the investigation and hearing process by filing a formal complaint and/or whether or not to receive supportive measures. A complainant's choice to participate in the investigation and hearing process and/or to receive supportive measures can be revoked, altered, or otherwise changed by providing notice to the Title IX Coordinator at any time prior to adjudication of the complaint.

A complainant may elect to receive supportive measures whether or not they elect to file a formal complaint or engage in the informal complaint resolution processes.

Investigation and Hearing Procedures for Formal Complaints of Sexual Harassment (FOR STUDENTS)

INVESTIGATION AND SANCTION

To initiate the investigation and hearing process for sexual harassment claims, a complainant must file a formal complaint with the Title IX Coordinator. A formal complaint requires the complainant's physical or digital signature or other indicia that the complainant is the person filing the formal complaint. A formal complaint may be filed in person, by mail, by electronic email, or by electronic submission. A complainant may receive supportive measures without filing a formal complaint. Formal complaints may not be filed anonymously.

The Title IX Coordinator may sign a formal complaint when concerns exist for conduct threatening the safety of the Rio Grande campus community. The Title IX Coordinator is not a complainant or a party in the investigation and hearing process. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in a Rio Grande education program or activity.

Nothing in this policy detracts from any legal right of a parent or guardian to act on behalf of a complainant, respondent, or other individual, subject to Family Educational Rights and Privacy Act (FERPA), including but not limited to filing a formal complaint.

When a formal complaint is submitted, a Title IX Coordinator will determine whether the conduct satisfies the following three criteria: (i) the conduct alleged would, if proved, constitute Title IX sexual harassment; (ii) it occurred in Rio Grande's education program or activity; (iii) it occurred in the United States.

If some but not all of the conduct alleged in the complaint satisfies all three of these elements, Rio Grande may choose to address the entire matter through this Title IX procedure. If it appears based upon initial review or upon information gathered during an investigation that the matter does not satisfy and/or no longer satisfies all three of these elements, Rio Grande will, as required by Title IX regulations, dismiss the matter from this procedure and transfer it for handling under any other applicable policies and/or procedures, so long as that transfer would not violate the Title IX regulations.

If the respondent is a student and an employee, the Title IX Coordinator will determine which procedures apply based upon the facts and circumstances, such as whether the respondent's status as a student or an employee predominates in the context of the prohibited conduct. The student-employee may be subject to sanctions both in connection with their employment and in connection with their student status, as appropriate under these and other applicable procedures.

PRESUMPTION OF NOT RESPONSIBLE

Throughout the process, there is a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the investigation and hearing process. Disciplinary sanctions or other actions that are not supportive measures will be imposed against a respondent only after completion of an investigation and hearing process that complies with this program.

EQUAL TREATMENT

Complainants and respondents shall be treated equitably throughout the investigation and hearing process.

STANDARD OF EVIDENCE

The standard of evidence to be used to determine responsibility for sexual harassment is the preponderance of the evidence. Rio Grande will look at the totality of the circumstances, including the nature of the alleged offense as well as the location of and the context in which the alleged incident(s) occurred. The determination as to whether a particular action constitutes a violation will be a factual determination made on a case-by-case basis based on relevant evidence. In the investigation and hearing process, an objective evaluation of all relevant evidence is required, including both inculpatory and exculpatory evidence.

CREDIBILITY

Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

REASONABLY PROMPT TIMEFRAMES

Rio Grande shall make appropriate efforts to ensure that, from the date of its receipt of a formal complaint, the investigation, hearing, and issuance of the adjudicating body's report shall be concluded within ninety (90) business days. Appeals are expected to be resolved within twenty (20) business days after the parties' submission of their statements.

Rio Grande shall make appropriate efforts to ensure, except where otherwise agreed to by the parties, that from the date of its receipt of a formal complaint, informal resolution processes shall be concluded within ninety (90) business days.

Temporary delay of the investigation and hearing process or the limited extension of timeframes for good cause, with written notice to the complainant and the respondent of the delay or extension and the reasons for the action, are permissible. Good cause may include, but is not limited to, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

EMERGENCY REMOVAL/ADMINISTRATIVE LEAVE

Rio Grande may remove a respondent from Rio Grande's program, activity, property, or place the respondent on administrative leave on an emergency basis after conducting an individualized safety and risk analysis and determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. Emergency removal/administrative leave determinations and appeals shall be conducted in accordance with established Rio Grande policies, procedures, and agreements. For more information, see the Community Code and Residence Life Code, Human Resource policies and procedures, and/or applicable collective bargaining agreements. Rio Grande will provide the respondent with notice and an opportunity to challenge the decision immediately following the removal or administrative leave.

FORMAL COMPLAINT

Upon receipt of a formal complaint of sexual harassment, the Title IX Coordinator or designee will provide written notice to the known parties with the following information:

- A description of Rio Grande's resolution, hearing, and investigation process, including any applicable informal resolution process.
- Notice of the allegations of sexual harassment. The notice will provide sufficient details known at the time, which include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The parties will be provided sufficient time to prepare a response before any initial interview.
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the investigation and hearing process.
- Notice that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence.
- Notice that Rio Grande prohibits knowingly making false statements or knowingly submitting false information during the investigation and hearing process.
- Information regarding resources available to provide academic and personal support on and off campus, including counseling services, academic advising, and resources for pursuing complaint resolution.

If, in the course of an investigation, Rio Grande decides to investigate allegations about the complainant or respondent that are not included in the initial written notice of a formal complaint, or additional allegations which are outside the scope of the Title IX Committee's jurisdiction, the appropriate Rio Grande office shall provide notice of the additional allegations to the parties whose identities are known.

INFORMAL RESOLUTION PROCESS

Informal resolution is a voluntary process through which parties consensually work toward resolution of a matter. The informal resolution process provides a remedies-based approach specific to the circumstances of the incident, without making a determination as to whether a policy has been violated. This approach allows the parties and Rio Grande to tailor responses to the unique facts and circumstances of an incident, particularly in cases where there is not a broader threat to individual or campus safety.

Rio Grande will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Prior to initiating an informal resolution process, Rio Grande will:

- i. Provide the parties with a written notice:
 - a. Disclosing the allegations and the requirements of the informal resolution process, including the circumstances under which it precludes the parties

from resuming a formal complaint arising from the same allegations and the consequences of beginning and then abandoning the informal resolution process.

- b. Explaining that, at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the investigation and hearing process with respect to the formal complaint.

- ii. Obtain the parties' voluntary, written consent acknowledging their desire to participate in the informal resolution process.

Informal resolution processes shall be conducted confidentially to the extent permitted by law. Informal resolution processes may result in the creation of records and/or other materials subject to institutional record retention policies, as permitted by the Family Education Rights and Privacy Act, or as required by law.

Following the conclusion of an informal resolution process, written notice of the outcome and closure of the formal complaint will be provided to the parties within thirty (30) business days.

FORMAL COMPLAINT RESOLUTION

A. About

The formal complaint resolution process consists of an investigation and a hearing before the University Hearing Board. As used in this program, the term "investigation" refers to the process that Rio Grande uses to review allegations and gather relevant evidence. Unless a respondent accepts responsibility, at the conclusion of the investigation, a hearing will be held to determine: (1) whether or not conduct in violation of this Policy occurred; and (2) if the conduct occurred, what actions Rio Grande will take to respond, remediate, eliminate, and prevent recurrence of the prohibited conduct within the Rio Grande campus community, which may include imposing disciplinary or corrective action and/or the provision of remedies to affected parties and/or the Rio Grande campus community.

B. Burden of Proof

Rio Grande has the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility.

C. Investigation

i. Gathering of Evidence

The investigating official shall interview individuals involved, witnesses, and any other persons determined to have relevant knowledge of the circumstances and/or deemed necessary for the completion of a thorough and accurate investigation. Each party shall have an equal opportunity to present witnesses, including fact and expert witnesses, as well as other inculpatory or exculpatory evidence. Rio Grande shall not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

ii. Consent to Use Certain Records

Rio Grande will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional

acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless Rio Grande obtains that party's voluntary, written consent to do so.

iii. Inspection of Evidence

Both parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which Rio Grande does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Rio Grande shall make all evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to that evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, Rio Grande will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least ten (10) business days to submit a written response, which the investigating official will consider prior to completion of the investigative report. For Rio Grande to contact the party's advisor, the party is responsible for providing the name of the advisor(s) to Rio Grande prior to this deadline.

iv. Cooperation

Rio Grande campus community members are expected to comply with reasonable investigating official requests for records, documentation, and/or other materials and to cooperate in the investigatory process, including the timely arrangement of meetings, evidence production, and following of investigating official directives. A factual finding and/or appropriate corrective or disciplinary action may be taken against Rio Grande campus community members who disrupt, obstruct, and/or otherwise fail to cooperate in Rio Grande investigatory processes.

v. Notice

Rio Grande will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with sufficient time for the party to prepare to participate.

vi. Investigative Report

The investigative report will be simultaneously distributed to all parties and their advisors, if any, at least ten (10) business days prior to a hearing in an electronic format or hard copy for their review and written response. The report will not contain any findings or conclusions, but will instead fairly summarize the relevant evidence and will contain:

- A summary of alleged conduct in violation of this Policy, including a description of the impact or effect alleged to have been caused;
- A summary of the response to the allegations;
- A summary of facts found during the investigation; and
- Analysis of the application of this Policy to facts found in the investigation.

vii. Extensions of Time

Where parties, witnesses, and/or evidence needed by the investigating official are delayed, temporarily unavailable, and/or otherwise withheld, good cause exists for the investigating official to extend the timeframe of the investigatory process as necessary to complete a thorough and appropriate review of the matter. When an extension is inevitable, the investigating official shall notify the parties simultaneously with written notice of the delay or extension and the reasons for the action.

HEARING PROCEDURES

Any hearing involving potential sexual harassment will proceed as follows:

1. **APPEARANCE OF PARTIES:** In the absence of an informal resolution or a respondent accepting responsibility, a live hearing shall be conducted to determine responsibility. Hearings may be conducted with all parties physically present in the same geographic location, or at Rio Grande's discretion, any or all parties, witnesses, or other participants may appear at the hearing virtually, with technology enabling participants simultaneously to see and hear each other. The Chairperson of the University Hearing Board reserves the right to make appropriate accommodations to secure the safety and comfort of all parties and witnesses during a sexual harassment proceeding or reasonable accommodations required under law. This may include periodic breaks so parties may speak with their advisors.

2. **SUBPOENA OF WITNESSES:** The University Hearing Board will have the authority to subpoena any appropriate faculty member, staff member, or currently enrolled student to appear and testify at a hearing. Any of the parties or the investigating official may request such a subpoena. The request for subpoena must be submitted to the University Hearing Board 3 business days prior to the scheduled hearing. In addition, the parties and the investigating official may call witnesses who are not faculty, staff, or students and who are willing to appear at the hearing.

3. **ADVISOR:** Parties may elect to have up to two advisors of their choice. An advisor may consult with a party verbally or in writing in a quiet, non-disruptive manner, and an advisor may not participate as a spokesperson or vocal advocate in meetings, interviews, or hearings, other than as described below, and must comply with all rules of decorum established for the particular proceeding. Should the matter proceed to a hearing, one advisor will be responsible for conducting cross-examination of witnesses. If a party does not have an advisor for a hearing, Rio Grande will provide one free of charge to the party for the purpose of conducting cross-examination of witnesses on behalf of the party. Parties are not permitted to conduct cross-examination of witnesses directly. Cross-examination may be conducted only through an advisor.

The name of any party's advisor must be submitted in writing to the University Hearing Board at least 5 business days before the hearing.

4. **RECORDING:** Rio Grande will create an audio or audiovisual recording of the live hearing. Panel deliberations will not be recorded. Any record of the hearing will remain the property of Rio Grande and be subject to the Family Educational Rights and Privacy Act. The parties will be permitted access to inspect and review the recording.

5. **HEARING:** Hearings will generally be closed to observers. Any party may request to open the hearing to named observers. Requests may be submitted to the University Hearing Board up to 24 hours prior to the scheduled hearing. All parties should remember that Rio Grande does not tolerate retaliatory conduct – including intimidation tactics – resulting from a report of a potential Policy Against Sex-Based Discrimination violation. Retaliatory conduct will be subject to further disciplinary proceedings.

The investigating official will be present to answer questions. If either party or a witness does not submit to cross-examination at the hearing, the panel must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the panel cannot draw an inference about the party's or witness' testimony or credibility based solely on a party's or witness' absence from the live hearing or refusal to answer cross-examination or other questions. The parties shall be afforded the same opportunities to have witnesses present for hearings.

6. ORDER OF HEARING:

1. Call to order by Chairperson.
2. Summary of the formal complaint and investigation report.
3. Statement by the complainant.
4. Statement by the respondent.
5. Evidence, including witness testimony, may be presented by the parties. Following the presentation of each witness called, the witness will be available for questions from the other party's advisor and the University Hearing Board.
 - 1) Evidence presented by the complainant.
 - 2) Evidence presented by the respondent.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

6. Statement by the complainant.
7. Statement by the respondent.
8. Deliberation. The University Hearing Board will deliberate outside the presence of others to determine whether the evidence shows it is more likely than not that the respondent(s) did or did not engage in conduct that constitutes sexual harassment.
9. Decision. The University Hearing Board will issue a written decision within 5 business days following the last day of the hearing. The written decision will include:
 - a. Identification of the allegations potentially constituting sexual harassment as defined in this Policy.
 - b. A description of the procedural steps taken, from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
 - c. Findings of fact supporting the determination.
 - d. Conclusions regarding the application of the Policy to the facts;
 - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Rio Grande imposes on the respondent, and whether remedies designed to restore or preserve equal access to Rio Grande's education program or activity will be provided by Rio Grande to the complainant; and
 - f. Rio Grande's procedures and permissible bases for the complainant and respondent to appeal.

Rio Grande will provide the written determination to the parties simultaneously. Records related to the hearing and the determination will be retained by the Title IX Committee for a minimum of seven years.

7. APPEAL: Any party may appeal the University Hearing Board's decision to the Rio Grande President, or designee. If the allegation is against the President, the appeal goes to the Provost. The party wishing to appeal must file a notice of appeal with the Dean of Student Success within 3 business days following the delivery of the written disposition. Within 10 business days following the delivery of the written disposition, the party initiating the appeal must file a written appeal with the Office of the Dean of Student Success. The written appeal may not exceed 15 pages in length and must be addressed to the President of the University. Parties may appeal on the following bases: (A) procedural irregularity that affected the outcome of the matter; (B) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; (C) the Title IX Coordinator, investigating official(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; or (D) the University Hearing Board's written determination is not supported by the evidence.

Rio Grande will notify the other party in writing when an appeal is filed. That party will then have 10 business days to submit a written statement in support of, or challenging, the outcome. That statement shall not exceed 15 pages in length.

8. REVIEW ON APPEAL: The President, Provost, or designee, as the case may be, will review the written appeal and statements, a recording of the hearing, and the hearing minutes. The President, Provost, or designee will come to one of the following conclusions:

1. The evidence (including any new evidence) supports the University Hearing Board's written determination, and the sanction imposed is appropriate.
2. The evidence (including any new evidence) supports the University Hearing Board's written determination, but the sanction imposed is inappropriate and another sanction the President believes is appropriate will be levied.
3. There was a procedural irregularity creating an unfair result, and the matter must be re-investigated and re-heard under the supervision of the President or Provost.
4. There was a conflict of interest or bias affecting the outcome of the matter, requiring re-investigation and another hearing under the supervision of the President or Provost.

The President or Provost will issue a written decision describing the result of the appeal and the rationale for the result to both parties at the same time.

All sanctions that are appealed will remain in effect during the appellate process, except when the Dean of Student Success, in consultation with the Title IX Coordinator, has determined otherwise.

University Policy #4.10 – Anti-Harassment Policy and Investigation and Adjudication Process for Certain Harassment and Sex-Based Discrimination Claims – University Policy & Procedures Manual (PPM)

GENERAL HARASSMENT POLICY APPLICABLE TO UNIVERSITY OF RIO GRANDE

It is the University of Rio Grande's position that employees, students, vendors and visitors should have a working, learning, and visiting environment free from intimidation, hostility, or other offensive conditions.

The University expressly prohibits any form of harassment based on race, color, national origin, sex, sexual orientation, gender, gender identity, genetic information, religion, disability, age, marital status, ancestry, national or ethnic origin, socioeconomic status, political affiliation, military or veteran status, or other characteristics protected by applicable federal, state, or local laws. Individuals found to be in violation of this policy shall be subject to disciplinary action, which may include written warning, suspension, or dismissal. As mentioned in the Policy Against Sex-Based Discrimination, the University also prohibits discrimination based on sex or gender.

DEFINITION OF HARASSMENT

Harassment is unwelcome conduct that creates or contributes to a hostile environment. Harassment may include verbally abusive, threatening, crude, impolite, or unprofessional conduct based on an individual's or organization members' race, color, national origin, sex, sexual orientation, gender, gender identity, genetic information, religion, disability, age, marital status, ancestry, national or ethnic origin, socioeconomic status, political affiliation, military or veteran status, or other characteristics protected by applicable federal, state, or local laws. Sexual harassment is specifically defined in the Policy Against Sex-Based Discrimination.

Conduct constituting harassment may include, but is not limited to:

1. slurs;
2. "jokes" that refer to a protected class;
3. offensive or derogatory comments based on membership in a protected class;
4. verbal or physical conduct based on an individual's membership in a protected class;
5. harassment due to marriage to or association with an individual in a protected class;
6. harassment due to membership in or association with ethnic-based organizations;
7. harassment due to an accent or manner of speaking

This conduct by or towards any Rio Grande student or employee will not be tolerated by the University of Rio Grande.

PROCEDURES FOR CASES INVOLVING ALLEGED HARASSMENT OR SEX-BASED DISCRIMINATION NOT INVOLVING SEXUAL HARASSMENT

- A. The Director of Human Resources and/or Title IX Coordinator shall be responsible for the dissemination of this policy.
- B. These procedures only apply to cases of harassment or sex-based discrimination not

involving sexual harassment.

- C. Each Vice President, dean, director, administrative officer, or supervisor of an operational unit is to cooperate with the Director of Human Resources and/or Title IX Coordinator within his/her area of responsibility. These officials shall also be responsible for referring complaints to the Director of Human Resources and/or Title IX Coordinator when harassment, sex-based discrimination, or reprisal for reporting harassment or sex-based discrimination is alleged to have occurred.
- D. It is the University's policy to investigate thoroughly and remedy any known incidents of harassment or sex-based discrimination. In order to accomplish this, however, harassment and sex-based discrimination must be brought to the attention of the University Administration. Accordingly, students and employees who feel aggrieved because of harassment have an obligation to communicate their problem immediately; an employee or student who has a complaint of harassment or discrimination should report the incident to the Director of Human Resources and/or Title IX Coordinator, who will investigate the allegations. Every effort will be made to insure the privacy of the complainant and the accused.
 - 1. Reports of harassment not involving sexual harassment should go to the Director of Human Resources for investigation.
 - 2. Reports of sex-based discrimination not involving sexual harassment should go to the Title IX Coordinator.
- E. An individual who believes that he or she has been subject to unlawful harassment or sex-based discrimination or witnessed that conduct should promptly file a written report of that fact with the Director of Human Resources and/or Title IX Coordinator, as described above. If the individual alleges harassment or sex-based discrimination against the Director of Human Resources and/or Title IX Coordinator, the individual's immediate Supervisor or Manager, the Vice President, or the Dean, the individual need not report the incident to the alleged harasser and, instead, may report the incident to the office of the President of the University.
- F. The written report should identify the alleged incidents of harassment or sex-based discrimination, as appropriate, the alleged perpetrators of the harassment or discrimination (if known), and any witnesses to the discrimination or harassment. The report will be kept confidential to the extent possible with a thorough investigation and any remedial action required. If the investigation reveals that harassment or sex-based discrimination has occurred, discipline will be recommended by the Director of Human Resources and/or Title IX Coordinator or the President, and disciplinary action will be taken. Thereafter, the disciplinary action may be appealed through the appropriate procedure.
- G. When a report involves an alleged act of sexual harassment, the report will be subject to the investigation and hearing procedures for sexual harassment, so long as a formal complaint is initiated. When any portion of A-E of this section conflicts with the investigation and hearing procedures contained in that process, that process controls.

PUBLICATION

This policy shall be published and available to all employees and students through Rio Grande's website and other publications as deemed necessary (i.e. student handbook, policies and procedures library, etc.). The policy will be distributed to new employees through new employee orientation with additional copies available from the Director of Human Resources and/or Title IX Coordinator.

TRAINING

- A. The University of Rio Grande takes seriously its responsibility to prevent, address, and remedy harassment and sex-based discrimination. The University will take all reasonable steps to make employees, supervisors, and students aware of harassment and discrimination issues.
- B. All employees will be trained in the following areas: defining harassment, including sexual harassment; identifying harassment and improper discrimination; knowing their respective obligations under State and Federal laws; and understanding the proper investigation and adjudication procedure.
- C. Supervisors will additionally be trained in applying Rio Grande policy and taking appropriate corrective steps when an incident of harassment or sex-based discrimination is reported or witnessed, including reporting potential violations of the Policy Against Sex-Based Discrimination to the Title IX Coordinator.

Rio Grande encourages individuals who believe that they have been survivors or witnesses of harassment or sex-based discrimination to come forward and report such harassment or discrimination. The University will not take any adverse action against an individual who, in good faith, comes forward to report harassment or sex-based discrimination, regardless of whether the allegation is substantiated. Retaliation for any good faith report or cooperation in any subsequent investigation is expressly prohibited and anyone who engages in retaliation will be subject to discipline, up to and including termination or expulsion.